

SCHEDULE 1

Article 2(1)

EXPRESSIONS DEFINED

Expression	Meaning
“The Concessionaires”	The meaning given by section 1(8) (read with section 3(3)) of the Channel Tunnel Act 1987.
“Control zone”	A control zone within the meaning of the international articles.
“Frontier controls”	So far as they constitute frontier controls within the meaning of the international articles and are controls in relation to persons or goods, police, immigration, customs, health, veterinary and phytosanitary controls.
“Frontier control enactment”	An Act, or an instrument made under an Act, for the time being in force, which contains provision relating to frontier controls.
“The international articles”	The meaning given by article 2(3) above.
“International service”	The meaning given in section 13(6) of the Channel Tunnel Act 1987.
“Shuttle train”	The meaning given in section 1(9) of the Channel Tunnel Act 1987.
“Terminal control point”	A place which is an authorised terminal control point for international services for the purposes of sections 11 and 12 of the Channel Tunnel Act 1987.
“Through train”	A train, other than a shuttle train, which for the purposes of sections 11 and 12 of the Channel Tunnel Act 1987 is engaged on an international service.
“Train manager”	In relation to a through train or shuttle train, the person designated as train manager by the person operating the international service on which the train is engaged.
“The tunnel system”	The meaning given by section 1(7) of the Channel Tunnel Act 1987.

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## SCHEDULE 2

Article 2(3)

### INTERNATIONAL ARTICLES

#### ARTICLES 1

##### DEFINITIONS

- (1) Any term defined in the Treaty shall have the same meaning in this Protocol.
- (2) Otherwise for the purposes of this Protocol the expression:
  - (a) “frontier controls” means police, immigration, customs, health, veterinary and phytosanitary, consumer protection, and transport and road traffic controls, as well as any other controls provided for in national or European Community laws and regulations;
  - (b) “host State” means the State in whose territory the controls of the other State are effected;
  - (c) “adjoining State” means the other State;
  - (d) “officers” means persons responsible for policing and frontier controls who are under the command of the persons or authorities designated in accordance with Article 2(1);
  - (e) “rescue services” means the authorities and organisations whose functions are provided for in the emergency arrangements referred to in Part VII of this Protocol who are under the command of the persons or authorities designated in accordance with Article 2(1);
  - (g) “control zone” means the part of the territory of the host State determined by mutual agreement between the two Governments within which the officers of the adjoining State are empowered to effect controls;
  - (h) “restricted zone” means the part of the Fixed Link situated in each State subject to special protective security measures;
  - (i) “through trains” means trains travelling the Fixed Link but originating and terminating outside it, as opposed to “shuttle trains” which are trains travelling solely within the Fixed Link.

#### PART I

##### AUTHORITIES AND GENERAL PRINCIPLES OF CO-OPERATION

###### ARTICLE 2

- (1) Each of the Governments shall designate the authorities or the persons having charge of the services which in its territory have responsibility for the exercise of frontier controls, the maintenance of law and order and fire fighting and rescue within the Fixed Link.

#### PART II

##### FRONTIER CONTROLS AND POLICE: GENERAL

###### ARTICLE 5

- (1) In order to simplify and speed up the formalities relating to entry into the State of arrival and exit from the State of departure, the two Governments agree to establish juxtaposed national control bureaux in the terminal installations situated at Frethun in French territory and at Folkestone

in British territory. These bureaux shall be so arranged that, for each direction of travel, the frontier controls shall be carried out in the terminal in the State of departure.

(2) Supplementary frontier controls may exceptionally be carried out in the Fixed Link by officers of the State of arrival on its own territory.

#### ARTICLE 6

The competence of those juxtaposed national control bureaux shall extend to all cross-frontier movements with the exception of customs clearance of commercial traffic.

#### ARTICLE 7

(1) For through trains, each state may carry out its frontier controls during the journey and may authorise the officers of the other State to carry out their frontier controls in its territory.

(2) The two States may agree to an extension of the control zones for through trains, as far as London and Paris, respectively.

#### ARTICLE 8

Within the Fixed Link, each Government shall permit officers of the other State to carry out their functions in its own territory in application of their powers relating to frontier controls.

#### ARTICLE 9

The laws and regulations relating to frontier controls of the adjoining State shall be applicable in the control zone situated in the host State and shall be put into effect by the officers of the adjoining State in the same way as in their own territory.

#### ARTICLE 10

(1) The officers of the adjoining State shall, in exercise of their national powers, be permitted in the control zone situated in the host State to detain or arrest persons in accordance with the laws and regulations relating to frontier controls of the adjoining State or persons sought by the authorities of the adjoining State. These officers shall also be permitted to conduct such persons to the territory of the adjoining State.

(2) However, except in exceptional circumstances, no person may be held more than 24 hours in the areas reserved, in the host State, for the frontier controls of the adjoining State. Any such detention shall be subject to the requirements and procedures laid down by the legislation of the adjoining State.

(3) In exceptional circumstances the 24 hour period of detention may be extended for a further period of 24 hours in accordance with the legislation of the adjoining State. The extension of the period of detention shall be notified to the authorities of the host State.

#### ARTICLE 11

Breaches of the laws and regulations relating to frontier controls of the adjoining State which are detected in the control zone situated in the host State shall be subject to the laws and regulations of the adjoining State, as if the breaches had occurred in the latter's own territory.

#### ARTICLE 12

(1) The frontier controls of the State of departure shall normally be effected before those of the State of arrival.

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(2) The officers of the State of arrival are not authorised to begin to carry out such controls before the end of controls of the State of departure. Any form of relinquishment of such controls shall be considered as a control.

(3) The officers of the State of departure may no longer carry out their controls when the officers of the State of arrival have begun their own operations except with the consent of the competent officers of the State of arrival.

(4) If exceptionally, in the course of the frontier controls, the sequence of operations provided for in paragraph (1) of this Article is modified, the officers of the State of arrival may not proceed to detentions, arrests or seizures until the frontier controls of the State of departure are completed. In such a case, these officers shall escort the persons, vehicles, merchandise, animals or other goods, for which the frontier controls of the State of departure are not yet completed, to the officers of that State. If these latter then wish to proceed to detentions, arrests or seizures, they shall have priority.

#### ARTICLE 14

The detailed plans for the Fixed Link and its means of access, shall, in accordance with the relevant provisions of the Concession, delimit among other things:

- (a) the control zones;
- (b) the restricted zones and their sub-divisions;
- (c) railway lines and their means of access included in the control zones;
- (d) the area of the frontier control installations and their means of access.

#### ARTICLE 16

Where investigations and proceedings concern offences committed in the Fixed Link or having a connection with the Fixed Link, the authorities of the host State shall, at the request of the authorities of the adjoining State, undertake official enquiries, the examination of witnesses and experts and the notification to accused persons of summonses and administrative decisions.

#### ARTICLE 17

The assistance provided for in Article 16 shall be furnished in accordance with the laws, regulations and procedures in force in the State providing the assistance, and with international agreements to which that State is a party.

#### ARTICLE 18

If the State of arrival refuses admission to persons, vehicles, animals or goods, or if persons decide not to pass through the frontier controls of the State of arrival, or send or take back any vehicles, animals or goods which are accompanying them, the authorities of the State of departure may not refuse to accept back such persons, vehicles, animals or goods. However, the authorities of the State of departure may take any measures to deal with them in accordance with national law and in a way which does not impose obligations on the other State.

#### ARTICLE 19

(2) In an emergency, the local representatives of the authorities concerned may by mutual agreement, provisionally bring into effect alterations to the delimitation of the control zones which may prove necessary. Any arrangement so reached shall come into effect immediately.

## PART III

### HEALTH, VETERINARY AND PHYTOSANITARY CONTROLS

#### ARTICLE 20

Controls on persons for the purpose of safeguarding public health shall be carried out in the control zone situated in the host State by the competent authorities of the adjoining State in conformity with the regulations applicable in that State.

#### ARTICLE 21

The bringing into each of the two States of living animals, animal products, plants, plant products and foodstuffs for human or animal consumption shall be subject to controls by the competent authorities of the importing State in conformity with the regulations applicable in that State.

#### ARTICLE 22

The frontier controls referred to in Article 21 shall be carried out by the competent authorities of the two States either before or during Customs clearance.

#### ARTICLE 23

(1) The frontier controls referred to in Article 21 shall include:

- (a) inspection of certificates or accompanying documents, termed documentary inspection;
- (b) physical examination, including where necessary the taking of samples;
- (c) inspection of means of transport.

(2) Such controls may be limited to documentary inspection, while physical examination may be undertaken as considered necessary.

#### ARTICLE 24

Veterinary inspection of living animals shall be without prejudice to any subsequent quarantine measures which may be imposed by the importing State.

## PART IV

### OFFICERS

#### ARTICLE 26

Officers of both States shall be permitted to circulate freely in the whole of the Fixed Link for official purposes. In carrying out their functions they shall be authorised to pass through the frontier controls simply by producing appropriate evidence of their identity and status.

#### ARTICLE 28

(1) Officers of the adjoining State may wear their national uniform or visible distinctive insignia in the host State.

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(2) In accordance with the laws, regulations and procedures governing the carriage and use of firearms in the host State, the competent authorities of that State will issue permanent licences to carry arms:

- (a) to officers of the adjoining State exercising their official functions on board trains within the Fixed Link; and
- (b) to an agreed number of specified officers of the adjoining State exercising their functions within the control zone of the host State.

#### ARTICLE 29

(1) The authorities of the host State shall grant the same protection and assistance to officers of the adjoining State, in the exercise of their functions, as they grant to their own officers.

(2) The provisions of the criminal law in force in the host State for the protection of officers in the exercise of their functions shall be equally applicable to the punishment of offences committed against officers of the adjoining State in the exercise of their functions.

#### ARTICLE 30

(1) Without prejudice to the application of the provisions of Article 46, claims for compensation for loss, injury or damage caused by or to officers of the adjoining State in the exercise of their functions in the host State shall be subject to the law and jurisdiction of the adjoining State as if the circumstance giving rise to the claim had occurred in that State.

(2) Officers of the adjoining State may not be prosecuted by authorities of the host State for any acts performed in the control zone or within the Fixed Link whilst in the exercise of their functions. In such a case, they shall come under the jurisdiction of the adjoining State, as if the act had been committed in that State.

(3) The judicial authorities or the police of the host State, having taken steps to record the complaint and to assemble the facts relating thereto, shall communicate all the particulars and evidence thereof to the competent authorities of the other State for the purposes of a possible prosecution according to the laws in force in the latter.

#### ARTICLE 31

(1) Officers of the adjoining State shall be permitted freely to transfer to that State sums of money levied on behalf of their Government in the control zone situated in the host State, as well as merchandise and other goods seized there.

(2) They may equally sell such merchandise and other goods in the host State in conformity with the provisions in force in the host State, and transfer the proceeds to the adjoining State.

## PART V FACILITIES

#### ARTICLE 34

The authorities of the adjoining State shall be able to make use in the host State of the accommodation, installations and equipment necessary for the performance of their functions.

#### ARTICLE 35

(1) The officers of the adjoining State are empowered to keep order within the accommodation appointed for their exclusive use in the host State.

(2) The officers of the host State shall not have access to such accommodation, except at the request of the officers of the adjoining State or in accordance with the laws of the host State applicable to entry into and searches of private premises.

#### ARTICLE 36

All goods which are necessary to enable the officers of the adjoining State to carry out their functions in the host State shall be exempt from all taxes and dues on entry and exit.

#### ARTICLE 37

(1) The officers of the adjoining State whilst exercising their functions in the host State shall be authorised to communicate with their national authorities.

## PART VI

### CO-OPERATION IN CRIMINAL JUSTICE

#### ARTICLE 38

(1) Without prejudice to the provisions of Articles 11 and 30(2), when an offence is committed in the territory of one of the two States, including that lying within the Fixed Link up to its frontier, that State shall have jurisdiction.

- (a) (2) (a) Within the Fixed Link, each State shall have jurisdiction and shall apply its own law:
- (i) when it cannot be ascertained with certainty where an offence has been committed; or
  - (ii) when an offence committed in the territory of one State is related to an offence committed on the territory of the other State; or
  - (iii) when an offence has begun in or has been continued into its own territory;
- (b) however, the State which first receives the person suspected of having committed such an offence (in this Article referred to as “the receiving State”) shall have priority in exercising jurisdiction.

(3) When the receiving State decides not to exercise its priority jurisdiction under paragraph (2) of this Article it shall inform the other State without delay. If the latter decides not to exercise its jurisdiction, the receiving State shall be obliged to exercise its jurisdiction in accordance with its own national law.

#### ARTICLE 39

Where an arrest has been made for an offence in respect of which a State has jurisdiction under Article 38, that arrest shall not be affected by the fact that it continues in the territory of the other State.

#### ARTICLE 40

Without prejudice to the application of Article 3 of the Treaty and of Part II of this Protocol, the police and customs officers of one State may in accordance with their own national laws make arrests

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on the territory of the other State in cases where a person is found committing, attempting to commit, or just having committed an offence:

- (a) on board any train which has commenced its journey from one State to the other and is within the Fixed Link; or
- (b) within any tunnel described in Article 1(2) of the Treaty.

#### ARTICLE 41

In the case of arrests covered by Articles 39 and 40:

- (a) the person arrested shall be presented without delay to the competent authorities of the State of arrival for that State to be responsible for determining the exercise of jurisdiction as required by Article 38; and
- (b) where jurisdiction shall be exercised by the other State in accordance with Article 38, the person arrested may be transferred to the territory of that State. However, any such transfer shall take place within 48 hours of the presentation under paragraph (a) of this Article. Moreover, each State reserves the right not to transfer its nationals.

## PART VII

### PUBLIC SAFETY AND RESCUE

#### ARTICLE 42

(1) In case of need the rescue services of the two countries may be committed to joint interventions within the Fixed Link; the rescue services of the adjoining State shall in that case be placed at the disposal of the competent authorities of the host State.

(2) The rescue services so committed shall however remain under their own internal command.

#### ARTICLE 43

(1) In the case of a joint intervention, the competent authorities of each State shall be responsible for the costs incurred by their own rescue services. Any costs which may be recovered from any person or organisation shall be shared in proportion to their actual costs incurred by the rescue services of the two countries.

(2) The conditions under which the rescue services of the two countries may intervene shall be determined by the emergency arrangements established jointly by the competent authorities of the two States.

#### ARTICLE 44

(1) Without prejudice to the application of the provisions of Article 46, if, during a rescue operation in the territory of the host State, damage is caused to a third party by a member of the rescue services of the adjoining State, the competent authorities of the host State shall make reparations in respect of the damage according to the arrangements which would have applied had the damage been caused by its own rescue services.

(2) In the case of the death of, or personal injury to, the personnel of the rescue services of the adjoining State, that State shall waive any claim against the host State.

(3) Whilst in the exercise of their official functions, members of the rescue services shall:

- (a) benefit in the same way as officers from the provisions of Articles 28(1), 29 and 30(2);

- (b) in the case of a joint intervention, be permitted to circulate freely in the whole of the Fixed Link;
- (c) except in circumstances provided for in sub-paragraph (b) and after agreement by the competent authorities of the two States, be granted access where necessary to that part of the Fixed Link lying within the territory of the adjoining State.

## PART VIII FINAL CLAUSES

### ARTICLE 46

(1) Without prejudice to the application of Articles 15 and 16 of the Treaty in any case covered by those two Articles, in the case of claims for compensation resulting from the application of this Protocol the following provisions shall apply:

- (a) each State shall waive any claim which it may have against the other State for compensation in respect of damage caused to its officers or its property;
- (b) claims by the Concessionaires shall be dealt with in accordance with the provisions of the Concession.

(2) The provisions of this Article do not affect in any way the rights of third parties under the laws of each State.

### ARTICLE 47

The procedures for the implementation of this Protocol may, as far as necessary, be the subject of technical or administrative arrangements between the competent authorities of the two States.

## SCHEDULE 3

Article 6

## PART I POWERS OF OFFICERS

### **Power to assist French authorities**

1.—(1) Where—

- (a) an officer belonging to the French Republic has in a control zone in the United Kingdom arrested or detained a person as permitted by Article 10(1) of the international articles, and
- (b) such an officer so requests,

a constable or an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979<sup>(1)</sup> (in this Schedule referred to as a “customs officer”) may make arrangements for the person to be taken into temporary custody.

(2) A person taken into temporary custody under sub-paragraph (1)—

- (a) shall be treated for all purposes as being in lawful custody, and

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(1) 1979 c. 2.

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- (b) may be taken to a police station or such other place as may be appropriate in the circumstances, and shall in that case be treated as being a person in whose case sections 36(7) and (8), 54 to 56 and 58 of the Police and Criminal Evidence Act 1984(2) (in this Schedule referred to as “the 1984 Act”), and in the case of a child or young person section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933(3), apply, and
- (c) must be returned, before the end of the period for which he could in the circumstances be detained in the United Kingdom under Article 10 of the international articles, to a place where detention under that Article could be resumed.

### **Powers of arrest outside United Kingdom**

2.—(1) A constable may in a control zone in France—

- (a) exercise any power of arrest conferred by a frontier control enactment or conferred by the 1984 Act in respect of an offence under such an enactment,
- (b) make any arrest authorised by a warrant issued by a court in the United Kingdom, and
- (c) arrest any person whose name or description or both, together with particulars of an arrestable offence (within the meaning of section 24 of the 1984 Act) of which there are reasonable grounds for suspecting him to be guilty, have been made available by a chief officer of police to other such officers.

(2) For the purposes of sub-paragraph (1)(a) the reference in sub-paragraph (1) to a constable shall be construed—

- (a) in relation to the powers of arrest conferred by section 25(3) of and paragraph 17(1) of Schedule 2 to the Immigration Act 1971(4), as including a reference both—
  - (i) to an immigration officer appointed for the purposes of that Act under paragraph 1 of that Schedule, and
  - (ii) to an officer of customs and excise who is the subject of arrangements for the employment of such officers as immigration officers made under that paragraph by the Secretary of State,
- (b) in relation to the power of arrest conferred by paragraph 6(4) of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989(5), as including a reference to any person who by virtue of paragraph 1(1) of that Schedule is an examining officer for the purposes of that Act, and
- (c) in relation to any arrest that may be made by a customs officer by virtue of section 138 of the Customs and Excise Management Act 1979 and an arrest for a drug trafficking offence as defined in section 38(1) of the Drug Trafficking Offences Act 1986(6), as including a reference to a customs officer.

(3) A customs officer may in a control zone in France arrest any person whose name or description or both, together with particulars of an arrestable offence (within the meaning of section 24 of the 1984 Act) which is an offence in relation to an assigned matter as defined in section 1(1) of the Customs and Excise Management Act 1979 and of which there are reasonable grounds for suspecting him to be guilty, have been made available to customs officers generally under the authority of the Commissioners of Customs and Excise.

(2) 1984 c. 60, applied to Customs and Excise with modifications by S.I. 1985/1800, 1987/439.

(3) 1933 c. 12; section 34(2) to (7) and (8) to (11) were substituted by the Police and Criminal Evidence Act 1984, section 57; section 34(7) and (8) were amended, and section 34(7A) inserted, by the Children Act 1989 (c. 41), section 108(5) and (7), Schedule 13 paragraph 6, and Schedule 15.

(4) 1971 c. 77.

(5) 1989 c. 4.

(6) 1986 c. 32; the definition was amended by the Criminal Justice (International Co—operation) Act 1990 (c. 5), section 31(1) and Schedule 4 paragraph 4(4).

(4) For the purpose of enabling constables to make arrests in France in the cases described in Article 40 of the international articles sections 24 and 25 of the 1984 Act shall extend to France.

(5) Where—

- (a) an arrest has been made for an offence of the kind mentioned in Article 39 of the international articles, and
- (b) it falls to the competent authorities in France to determine the exercise of jurisdiction in accordance with Article 38,

the person arrested shall be treated as continuing to be under arrest while in France until he is presented to those authorities as required by Article 41(a).

(6) Where—

- (a) an arrest falling within sub-paragraph (4) or (5) above has been made, and
- (b) the competent authorities in France determine under Article 41 of the international articles that jurisdiction is to be exercised by the United Kingdom,

the person arrested shall be treated as having continued to be under arrest throughout, even if he was for some period in the custody of those authorities, and sections 30 and 41 of the 1984 Act shall apply accordingly.

(7) Any power conferred by an enactment to search an arrested person may be exercised following an arrest authorised by this paragraph as if the person had been arrested in the United Kingdom.

### **Arrested persons held in France**

3.—(1) Where—

- (a) an arrest of any kind authorised by paragraph 2 above has been made in a control zone in France, or
- (b) an arrest of any such kind has been made in the United Kingdom and the person arrested enters such a control zone while under arrest,

the person arrested may be held in France for a period of not more than 24 hours and, if there are exceptional circumstances and an officer belonging to the French Republic is notified of the extension, for a further such period.

(2) Subject to sub-paragraphs (3) and (4), the person arrested shall be treated as if the place where he is held were for the purposes of the provisions mentioned in paragraph 1(2)(b) above and those of sections 61 to 63 of the 1984 Act a police station, or where the arrest was made by a customs officer, a customs office, in England, not being a police station or customs office designated under section 35 of the 1984 Act.

(3) Where—

- (a) an arrest falling within paragraph 2(1)(a) or (3) above has been made by a customs officer, and
- (b) the person arrested is held in France in a place within the tunnel system which would if it were in England be a customs office within the meaning of the 1984 Act,

sections 34(1) to (5), 36, 37, 39 to 42, 50, 54, 55, 56(1) to (9), 58 (1) to (11), 62, 63 and 64(1) to (6) of the 1984 Act and in the case of a child or young person section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933, shall apply as if the place where he is held were a customs office in England designated under section 35 of the 1984 Act.

(4) Where the power of arrest mentioned in paragraph 2(2)(b) has been exercised any detention in France of the person arrested shall be treated for all purposes as being detention under paragraph 6(1) of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989, and section 16(2)

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of that Act, sections 51(b), 56 and 58 of the 1984 Act and section 34 of the Children and Young Persons Act 1933 as applying accordingly.

#### **Persons arrested by French officers**

4.—(1) Where—

- (a) an officer belonging to the French Republic has made an arrest falling within Article 39 or 40 of the international articles, and
- (b) he and the person arrested enter the United Kingdom,

the person arrested shall be taken to a police station.

(2) The custody officer at the police station to which the person is taken shall determine—

- (a) whether the offence is one over which the United Kingdom has jurisdiction by virtue of Article 38(1), and
- (b) if he determines that it is not, whether it is one over which the United Kingdom may exercise jurisdiction by virtue of Article 38(2) and if so whether jurisdiction is to be exercised,

and may for the purpose of determining those questions detain the person at the police station for not longer than the permitted period.

(3) The permitted period is the period of 48 hours beginning at the time at which the person arrives at the police station.

(4) Subject to sub-paragraph (6), the person shall be treated—

- (a) as not being detained at the police station for the purposes of section 37 of the 1984 Act, and
- (b) as not being in police detention for the purposes of sections 40 to 43 of the 1984 Act.

(5) Where the custody officer determines that the United Kingdom does not have jurisdiction by virtue of Article 38(1) and—

- (a) that jurisdiction is not exercisable by virtue of Article 38(2), or
- (b) that jurisdiction is exercisable by virtue of Article 38(2) but is not to be exercised,

he shall immediately inform the competent French authorities of his determination and shall arrange for the person to be transferred to France within the permitted period.

(6) Where the custody officer determines that the United Kingdom has jurisdiction by virtue of Article 38(1) or that jurisdiction is exercisable by virtue of Article 38(2) and is to be exercised—

- (a) he shall immediately inform the person of his determination,
- (b) the person shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and
- (c) that Part shall have effect in relation to him as if the relevant time mentioned in section 41(1) were the time at which he is informed of the determination.

(7) Where the police station to which the person is taken is not a police station designated under section 35 of the 1984 Act, references in this paragraph to the custody officer are to be construed as references to an officer not below the rank of sergeant.

#### **Arrests of French officers**

5.—(1) This paragraph applies where an officer belonging to the French Republic (“the officer”) is arrested for an act performed in the United Kingdom in the tunnel system or a control zone.

(2) If the officer enters France while under arrest—

- (a) he shall without delay be handed over for custody to the competent French authorities and shall be treated as continuing to be under arrest until he has been handed over, and
- (b) if after consultation with those authorities it is then determined that the act was not performed by the officer whilst in the exercise of his functions and he accordingly does not by virtue of Article 30(2) of the international articles come under French jurisdiction, he shall be treated as having continued to be under arrest until sub-paragraph (3) has been complied with.

(3) Where—

- (a) sub-paragraph (2)(b) applies, or
- (b) the officer does not enter France while under arrest,

he shall be taken to a police station designated under section 35 of the 1984 Act.

(4) Sub-paragraphs (5) to (9) apply in a case falling within sub-paragraph (3)(b).

(5) The custody officer at the police station to which the officer is taken shall after consultation with the competent French authorities determine whether the act was performed by the officer whilst in the exercise of his functions, and may for the purpose of determining that question detain the officer at the police station for not longer than the permitted period.

(6) The permitted period is the period of 48 hours beginning at the time at which the officer arrives at the police station.

(7) Subject to sub-paragraph (9), the officer shall be treated—

- (a) as not being detained at the police station for the purposes of section 37 of the 1984 Act, and
- (b) as not being in police detention for the purposes of sections 40 to 43 of the 1984 Act.

(8) Where the custody officer determines that the act was performed by the officer whilst in the exercise of his functions and the officer accordingly comes under French jurisdiction by virtue of Article 30(2), he shall immediately inform the competent French authorities and shall arrange for the officer to be transferred to France within the permitted period.

(9) In any other case—

- (a) the custody officer shall immediately inform the officer of his determination,
- (b) the officer shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and
- (c) that Part shall have effect in relation to him as if the relevant time mentioned in section 41(1) were the time at which he is informed of the determination.

### **Arrests of United Kingdom officers**

**6.—**(1) This paragraph applies where an officer belonging to the United Kingdom (“the officer”) is arrested for an act performed in France in the tunnel system or a control zone.

(2) If—

- (a) the officer does not enter the United Kingdom while under arrest, and
- (b) the competent French authorities determine that the act was performed by the officer whilst in the exercise of his functions and he accordingly comes under United Kingdom jurisdiction by virtue of Article 30(2) of the international articles,

he shall on being handed over by those authorities to a constable be treated as having been arrested by the constable.

(3) Where—

- (a) sub—paragraph (2)(b) applies, or

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- (b) the officer enters the United Kingdom while under the original arrest, he shall be taken to a police station designated under section 35 of the 1984 Act.
- (4) Sub—paragraphs (5) to (9) apply in a case falling within sub—paragraph (3)(b).
- (5) The custody officer at the police station to which the officer is taken shall—
- (a) immediately invite the competent French authorities to determine whether the act was performed by the officer whilst in the exercise of his functions, and
  - (b) afford those authorities any assistance they may require in determining that question, and may for the purpose of enabling that question to be determined detain the officer at the police station for not longer than the permitted period.
- (6) The permitted period is the period of 48 hours beginning at the time at which the officer arrives at the police station.
- (7) Subject to sub—paragraph (9), the officer shall be treated—
- (a) as not being detained at the police station for the purposes of section 37 of the 1984 Act, and
  - (b) as not being in police detention for the purposes of sections 40 to 43 of the 1984 Act.
- (8) Where the competent French authorities determine that the act was not performed by the officer whilst in the exercise of his functions and the officer accordingly does not by virtue of Article 30(2) come under United Kingdom jurisdiction, the custody officer shall arrange for the officer to be transferred to France within the permitted period.
- (9) In any other case—
- (a) the custody officer shall immediately inform the officer of the determination,
  - (b) the officer shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and
  - (c) that Part shall have effect in relation to him as if the relevant time mentioned in section 41(1) were the time at which he is informed of the determination.

## PART II

### SUPPLEMENTARY CONTROL OVER ANIMALS

#### **Extent**

1. This Part does not extend to France.

#### **Interpretation**

2. In this Part “animal” means a four—footed mammal capable of carrying the rabies virus, except one which—

- (a) is lawfully being transported through the tunnel system, or
- (b) enters the tunnel system for purposes connected with law enforcement or security and is under the control of a person approved in writing by the appropriate Minister,

and “tunnel”, except in the expression “tunnel system”, means a tunnel mentioned in section 1(7)(a) of the Channel Tunnel Act 1987.

### **Duties of Concessionaires**

3. The Concessionaires shall—
  - (a) construct and maintain the installations described in paragraph 4, and
  - (b) comply with the requirements imposed by paragraph 5.

### **Installations**

4. The installations mentioned in paragraph 3(a) are—
  - (a) a grid at the entrance to each tunnel of such a size, so positioned and electrified at such a voltage as to ensure, so far as is practicable, that an animal cannot cross it or go round it, and
  - (b) fencing around each such entrance, except at places where gaps are necessary to allow the passage of vehicles through the tunnel, of such material and of such a height above and depth below the surface of the ground as to ensure, so far as is practicable, that an animal cannot cross it.

### **Requirements**

5. The requirements mentioned in paragraph 3(b) are—
  - (a) to ensure, so far as is practicable, that any animal which has entered a tunnel is removed from the tunnel system,
  - (b) to operate a system of surveillance that will ensure, so far as is practicable, that the passage of any animal through a tunnel is detected,
  - (c) to take effective measures for the control of rodents, including monitoring each tunnel for the presence of rodents and laying poisoned bait for them,
  - (d) so far as is practicable, to keep each tunnel free of waste food, urine, faeces and every other substance likely to attract animals,
  - (e) to ensure that all points of access to a tunnel, other than the entrance to the tunnel and any ventilation shafts, are sealed when not in use,
  - (f) to ensure that all tunnel ventilation shafts are so constructed as effectively to deter animals from passing through them, and
  - (g) to keep records of the taking of any bait laid as mentioned in sub—paragraph (c) and of the detection of the presence of any animal in a tunnel or within the fencing described in paragraph 4(b).

### **Unauthorised interference**

6. Unless authorised in writing by the Concessionaires, no person shall intentionally—
  - (a) remove or in any way impair the effectiveness of any installation described in paragraph 4, or
  - (b) do anything which might in any way impair the effectiveness of any measures taken to comply with the requirements described in paragraph 5.

### **Enforcement**

7. A person authorised by the appropriate Minister may, on producing, if required to do so, some duly authenticated document showing his authority—

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- (a) enter any part of the tunnel system for the purpose of ascertaining whether there is or has been any breach of a requirement or prohibition imposed by this Part, and
- (b) for that purpose inspect any relevant document or computer record.

## Offences

8. A person who contravenes any of paragraphs 3 to 6 or obstructs the exercise of powers by an authorised person under paragraph 7 shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment to a fine, and
- (b) on summary conviction to a fine not exceeding the statutory maximum.

## SCHEDULE 4

Article 7(1)

### ENACTMENTS MODIFIED

### Immigration Act 1971

- 1.—(1) In this paragraph “the 1971 Act” means the Immigration Act 1971(7).
- (2) In section 3 of the 1971 Act (general provision for regulation and control)(8)—
  - (a) after subsection (4) insert—
 

“(4A) For the purposes of subsection (4) above a person seeking to leave the United Kingdom through the tunnel system who is refused admission to France shall be treated as having gone to a country outside the common travel area.”; and
  - (b) after subsection (7) insert—
 

“(7A) Any reference in an Order in Council under subsection (7) above to embarking or being about to embark shall be construed as including a reference to leaving or seeking to leave the United Kingdom through the tunnel system.”.
- (3) In section 4 of the 1971 Act (administration of control)(9) in subsection (2)(b)—
  - (a) for the words “the United Kingdom by ship or aircraft” substitute “, or seeking to arrive in or leave, the United Kingdom through the tunnel system”; and
  - (b) for the words after “arrive as” substitute “members of the crews of through trains or shuttle trains”.
- (4) In section 8 of the 1971 Act (exceptions for seamen etc.) (10) in subsection (1)—
  - (a) for the words from “of a ship” to “its crew” substitute “of a through train or shuttle train under an engagement requiring him to leave within seven days as a member of the crew of that or another such train”; and
  - (b) for the words “departure of the ship or aircraft” substitute “departure of the through train or shuttle train”.
- (5) In section 11 of the 1971 Act (construction of references to entry etc.)—

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(7) 1971 c. 77.

(8) Section 3 was amended by the British Nationality Act 1981 (c. 61), section 39(3) and (6) and Schedule 4 paragraphs 2 and 4, and by the Immigration Act 1988 (c. 14), sections 3(1) and 10 and Schedule, paragraph 1.

(9) Section 4 was amended by the British Nationality Act 1981, section 39(6) and Schedule 4 paragraph 2.

(10) Section 8 was amended by the British Nationality Act 1981, section 39(4) and (6) and Schedule 4 paragraphs 2 and 5, and by the Immigration Act 1988, section 4.

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- (a) in subsection (1)—
    - (i) for the words “by ship or aircraft” substitute “through the tunnel system”, and
    - (ii) for the words from “he disembarks” to “immigration officer” substitute—
      - “(a) he leaves any control area designated under paragraph 26 of Schedule 2 to this Act, or
      - (b) he remains on a through train after it has ceased to be such a control area”;
  - (b) omit subsections (2) and (3); and
  - (c) in subsection (4) omit the words after “section 1(3)”.
- (6) In section 13 of the 1971 Act (appeals against exclusion from United Kingdom)(**11**) in subsection (3) omit the words “at a port of entry and”.
- (7) In section 24 of the 1971 Act (illegal entry and similar offences)(**12**)—
- (a) in subsection (1)(f) for the words from “disembarks” to “aircraft” substitute “leaves a train in the United Kingdom”; and
  - (b) in subsection (1)(g) for the word “embarks” substitute “leaves or seeks to leave the United Kingdom through the tunnel system”.
- (8) In section 25 of the 1971 Act (assisting illegal entry and harbouring)(**13**)—
- (a) in subsection (3) after the words “immigration officer” insert “or a constable”;
  - (b) for subsection (6) substitute—
    - “(6) Where a person convicted on indictment of an offence under subsection (1) above is at the time of the offence—
    - (a) the owner or one of the owners of a through train, shuttle train or vehicle used or intended to be used in carrying out the arrangements in respect of which the offence is committed; or
    - (b) a director or manager of a company which is the owner or one of the owners of any such train or vehicle; or
    - (c) the train manager of any such train;then subject to subsections (7) and (8) below the court before which he is convicted may order the forfeiture of the train or vehicle.
- In this subsection (but not in subsection (7) below)—
- “owner” in relation to a train or vehicle which is the subject of a hire—purchase agreement includes the person in possession of it under that agreement, and in relation to a train, includes a charterer; and
  - “vehicle” includes a railway vehicle capable of being uncoupled from a train and a road vehicle carried on a train.”;
- (c) in subsection (7)—
    - (i) for the words “ship or aircraft”, wherever occurring, substitute “train”,
    - (ii) omit paragraph (a), and
    - (iii) omit the words from “In this subsection” to “in respect of the aircraft”; and
  - (d) in subsection (8) for the words “ship, aircraft”, wherever occurring, substitute “train”.
- (9) In section 27 of the 1971 Act (offences by persons connected with ships etc.)—

(11) Section 13 was amended by the British Nationality Act 1981, section 39(6) and Schedule 4 paragraph 3(1).

(12) Section 24 was amended by the British Nationality Act 1981, section 39(6) and Schedule 4 paragraph 2, and by the Immigration Act 1988, sections 6 and 10 and Schedule paragraph 10(3).

(13) Section 25 was amended by the British Nationality Act 1981, section 39(6) and Schedule 4 paragraph 6.

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- (a) in paragraph (a)—
    - (i) for the words “captain of a ship or aircraft” substitute “train manager of a through train or shuttle train”, and
    - (ii) in sub—paragraph (i) for the word “disembark” substitute “leave the train”;
  - (b) in paragraph (b)—
    - (i) for the words “as owner or agent of a ship or aircraft” substitute “as, or as agent of, a person operating an international service”,
    - (ii) in sub—paragraph (i) for the words from “the ship” to “port of entry” substitute “a through train to stop at a place other than a terminal control point”; and
  - (c) in paragraph (c)—
    - (i) for the words from “as owner” to “port” substitute “as, or as agent of, a person operating an international service, or as an occupier or person concerned with the management of a terminal control point”, and
    - (ii) for the words “the embarkation or disembarkation of passengers” substitute “persons arriving or seeking to arrive in, or leaving or seeking to leave, the United Kingdom through the tunnel system”.
- (10) In section 33 of the 1971 Act (interpretation)(14)—
- (a) in subsection (1)—
    - (i) omit the definitions of “airport” and “port”,
    - (ii) in the definition of “crew” after the word “captain,” insert “and in relation to a through train or a shuttle train, means all persons on the train who are actually employed in its service or working, including the train manager,”, and
    - (iii) in the definition of “illegal entrant” after the words “unlawfully entering or seeking” insert “(whether or not he has arrived in the United Kingdom)”; and
  - (b) in subsection (3) omit the words “ports of entry for the purposes of this Act, and the”.
- (11) In Schedule 2 to the 1971 Act (administrative provisions as to control on entry etc.)(15)—
- (a) in paragraph 1(4) and where first occurring in paragraph 1(5) for the words “ship or aircraft” substitute “through train or shuttle train”;
  - (b) in paragraph 1(5) for the words after “vehicle” substitute
    - “which—
    - (a) is in a control zone in France within the tunnel system, or
    - (b) has arrived in, or is seeking to leave, the United Kingdom through the tunnel system.”;
  - (c) in paragraph 2(1) for the words from “in the United Kingdom” to “seeking to enter the United Kingdom” substitute “, or who are seeking to arrive, in the United Kingdom through the tunnel system”;
  - (d) after paragraph 2(1) insert—
    - “(1A) The power conferred by sub—paragraph (1) is exercisable—
    - (a) as respects persons who have arrived in the United Kingdom, in a control area, and

(14) Section 33 was amended by the British Nationality Act 1981, section 39(6) and Schedule 4 paragraphs 2, 3(2) and 7, and by the Immigration Act 1988, section 10 and Schedule paragraph 5.

(15) Schedule 2 was amended by the British Nationality Act 1981, section 39(6) and Schedule 4 paragraphs 2 and 3(1), and by the Immigration Act 1988, section 10 and Schedule paragraphs 6 to 10.

- (b) as respects persons seeking to arrive in the United Kingdom who may first be questioned to ascertain whether they are seeking to do so), in a control zone in France.”;
- (e) in paragraph 2(3)—
  - (i) for the words “crew of a ship or aircraft” substitute “crew of a through train or shuttle train”;
  - (ii) after the words “joining a ship or aircraft” insert “or a shuttle train or through train”, and
  - (iii) after the words “intended ship or aircraft” insert “or train”;
- (f) in paragraph 3(1) and (2) for the words “embarking or seeking to embark in the United Kingdom” substitute “leaving or seeking to leave the United Kingdom through the tunnel system”;
- (g) in paragraph 5—
  - (i) for the words from “requiring passengers” to “such passengers” substitute “requiring persons, or any class of persons, arriving in or leaving, or seeking to arrive in or leave, the United Kingdom through the tunnel system”, and
  - (ii) for the words after “and for requiring” substitute “persons operating international services to supply such cards to those persons.”;
- (h) in paragraph 8(1)—
  - (i) after the words “in the United Kingdom” insert “through the tunnel system”, and
  - (ii) for the words after “sub—paragraph (2) below” substitute “give the person operating the international service by which he arrived (“the carrier”) directions requiring the carrier—
    - (a) to remove him from the United Kingdom through the tunnel system; or
    - (b) to make arrangements for his removal from the United Kingdom in any ship or aircraft specified or indicated in the directions to a country or territory so specified, being either—
      - (i) a country of which he is a national or citizen; or
      - (ii) a country or territory in which he has obtained a passport or other document of identity; or
      - (iii) the country from which he departed for the United Kingdom; or
      - (iv) a country or territory to which there is reason to believe he will be admitted.”;
  - (i) after paragraph 8(1) insert—

“(1A) Where a person seeking to arrive in the United Kingdom through the tunnel system is refused leave to enter and is then in a control zone in France within the tunnel system, an immigration officer may give the Concessionaires directions requiring them to secure that the person is taken out of the control zone to a place where he may be accepted back by the competent French authorities as provided in Article 18 of the international articles.”;
- (j) in paragraph 8(2)(16)—
  - (i) for the words “sub—paragraph (1)(b) or (c)” substitute “sub—paragraph (1)”, and
  - (ii) for the words “the owners or agents in question” substitute “the carrier”;

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(16) Paragraph 8(2) was amended by the Immigration Act 1988, section 10 and Schedule paragraph 9(1).

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- (k) in paragraph 9 for the words after “an immigration officer” substitute “may—
  - (a) if the illegal entrant has arrived in the United Kingdom, give such directions in respect of him as in a case within sub—paragraph (1) of paragraph 8 above are authorised by that sub—paragraph, or
  - (b) if the illegal entrant is in a control zone in France within the tunnel system, give such directions in respect of him as in a case within sub—paragraph (1A) of paragraph 8 above are authorised by that sub—paragraph.”;
- (l) in paragraph 10(1)—
  - (i) omit the words from “either” to “or (b)”,
  - (ii) for the words “owners or agents of any ship or aircraft” substitute “person operating the international service by which he arrived”, and
  - (iii) for the words “paragraph 8(1)(c)” substitute “paragraph 8(1)”;
- (m) in paragraph 11 after the words “ship or aircraft” insert “or through train or shuttle train”;
- (n) in paragraph 13 omit sub—paragraph (1) and in sub—paragraph (2)—
  - (i) for the words “crew of a ship or aircraft, and either” substitute “crew of a through train or shuttle train, and”,
  - (ii) omit the words from “or (B)” to “do so”, and
  - (iii) for the words after “an immigration officer may” substitute—
    - “(a) give the train manager of the train in which that person (“the crew member”) arrived directions requiring the train manager to remove him from the United Kingdom in that train; or
    - (b) give the person operating the international service on which that train is engaged directions requiring that person to remove the crew member from the United Kingdom in any train specified or indicated in the directions, being a train engaged on that international service; or
    - (c) give that person directions requiring him to make arrangements for the removal of the crew member from the United Kingdom in any ship or aircraft or through train or shuttle train specified in the directions to a country or territory so specified, being either—
      - (i) a country of which he is a national or citizen; or
      - (ii) a country or territory in which he has obtained a passport or other document of identity; or
      - (iii) the country from which he departed for the United Kingdom; or
      - (iv) a country or territory in which he was engaged as a member of the crew of the through train or shuttle train in which he arrived in the United Kingdom; or
      - (v) a country or territory to which there is reason to believe he will be admitted.”;
- (o) in paragraph 15 after the words “ship or aircraft” insert “or through train or shuttle train”;
- (p) in paragraph 16—
  - (i) in sub—paragraph (2) for the words “his removal in pursuance of” substitute “the taking of any action in respect of him required by”,
  - (ii) for sub—paragraph (3) substitute—

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“(3) A person may under the authority of an immigration officer be removed for detention under this paragraph—

- (a) from a vehicle in a control zone in the tunnel system in France; or
- (b) from a train or vehicle in which he arrives in the United Kingdom through the tunnel system.”

, and

(iii) after sub—paragraph (4) insert—

“(5) Where a person has under paragraph 11 or 15 above been placed on a through train or shuttle train sub—paragraph (4) of this paragraph has effect with the substitution—

- (a) for the word “captain”, wherever occurring, of the words “train manager”; and
  - (b) for the words “ship or aircraft”, wherever occurring, of the word “train”; and
  - (c) for the word “disembarking”, of the words “leaving the train.”;”
- (q) in paragraphs 19(1) and 20(1) for the words “owners or agents of the ship or aircraft in” substitute “person operating the international service by”; and
- (r) for paragraphs 26 and 27 substitute—

“**26.**—(1) Persons operating international services shall not, without the approval of the Secretary of State, arrange for any through train to stop for the purpose of enabling passengers to leave it except at a terminal control point.

(2) The Secretary of State may from time to time give written notice to persons operating international services designating all or any through trains as control areas while they are within any area in the United Kingdom specified in the notice or while they constitute a control zone.

(3) The Secretary of State may from time to time give written notice designating a control area—

- (a) to the Concessionaires as respects any part of the tunnel system in the United Kingdom or of a control zone within the tunnel system in France, or
- (b) to any occupier or person concerned with the management of a terminal control point in the United Kingdom.

(4) A notice under sub—paragraph (2) or (3) above may specify conditions and restrictions to be observed in a control area, and any person to whom such a notice is given shall take all reasonable steps to secure that any such conditions or restrictions are observed.

**27.**—(1) The train manager of a through train or shuttle train arriving in the United Kingdom—

- (a) shall take such steps as may be necessary to secure that persons, other than members of the crew who may lawfully enter the United Kingdom by virtue of section 8(1) of this Act, do not leave the train except in accordance with any arrangements approved by an immigration officer; and
- (b) where persons are to be examined by an immigration officer on the train, shall take such steps as may be necessary to secure that they are ready for examination.

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- (2) The Secretary of State may by order made by statutory instrument make provision for train managers of through trains or shuttle trains arriving in the United Kingdom to furnish to immigration officers—
- (a) in the case of a through train, a passenger list showing the names and nationality or citizenship of passengers arriving in the train;
  - (b) in any case, particulars of members of the crew of the train;
- and for enabling an immigration officer to dispense with the furnishing of any such list or particulars.”.
- (12) In Schedule 3 to the 1971 Act (supplementary provisions as to deportation)(17)—
- (a) in paragraph 1(1) after the words “any person” insert “who arrived in the United Kingdom through the tunnel system”;
  - (b) in paragraph 1(2) after sub—paragraph (b) insert—
    - “(bb) directions to the person operating the international service by which the person in question arrived (“the carrier”) requiring the carrier to make arrangements for the removal of the person in question through the tunnel system; or”; and
  - (c) in paragraph 1(4) after the word “voyage” insert “or journey”.

## Public Health (Control of Disease) Act 1984

2. In the Public Health (Control of Disease) Act 1984(18), in section 13 (regulations for control of certain diseases)—
- (a) in subsection (1)—
    - (i) omit the words from “, as respects” to “coastal waters,”,
    - (ii) in paragraph (b) for the words after “public health” substitute “from through trains or shuttle trains whose journey terminates in the United Kingdom”, and
    - (iii) in paragraph (c) for the words “vessel or aircraft leaving any place” substitute “through train or shuttle train whose journey begins in the United Kingdom”;
  - (b) after subsection (2) insert—
    - “(2A) Regulations made under this section may provide for the Secretary of State from time to time—
    - (a) to give written notice to persons operating international services designating all or any through trains as control areas while they are within any area in the United Kingdom specified in the notice or while they constitute a control zone; and
    - (b) to give written notice designating a control area—
      - (i) to the Concessionaires as respects any part of the tunnel system in the United Kingdom or of a control zone within the tunnel system in France, or
      - (ii) to any occupier or person concerned with the management of a terminal control point in the United Kingdom or of a place in the United Kingdom which is a customs approved area within the meaning of the Channel Tunnel (Customs and Excise) Order 1990(19);

(17) Schedule 3 was amended by the Criminal Justice Act 1982 (c. 48), section 64 and Schedule 10, and by the Immigration Act 1988, section 10 and Schedule paragraph 10(2).

(18) 1984 c. 22.

(19) S.I. 1990/2167.

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and references in subsections (2B), (3) and (5) below to a control area are to a control area so designated.

- (2B) Regulations made under this section may—
- (a) provide that a notice given as mentioned in subsection (2A) above may specify conditions and restrictions to be observed in a control area; and
  - (b) require any person to whom such a notice is given to take all reasonable steps to secure that any such conditions or restrictions are observed.”;
- (c) in subsection (3)—
- (i) omit paragraph (a),
  - (ii) for paragraph (b) substitute—
    - “(b) the questions to be answered in a control area by train managers of through trains and shuttle trains and other persons on such trains, as to cases of epidemic, endemic or infectious disease in the train,”
  - (iii) in paragraph (c) for the words “alighting from aircraft to answer” substitute “on or alighting from such trains to answer in a control area”,
  - (iv) for paragraph (d) substitute—
    - “(d) the detention of such trains and of persons on them,”
  - (v) in paragraph (e) for the words after “diseases” substitute “by train managers of and other persons on such trains,”;
- (d) in subsection (4) after paragraph (a) insert—
- “(aa) may, notwithstanding paragraph (a) above, specify the Secretary of State as an authority, or as the sole authority, by whom they are to be enforced and executed, and”;
- (e) in subsection (5)—
- (i) in paragraph (a) after the words “subsection (4)(a)” insert “or (aa)”, and
  - (ii) for the words “, vessel or aircraft” substitute “and any through train or shuttle train while it is in or constitutes a control area,”.

## Prevention of Terrorism (Temporary Provisions) Act 1989

**3.** In the Prevention of Terrorism (Temporary Provisions) Act 1989(20), in Schedule 5 (port and border control)—

- (a) in paragraph 2(1) for the words from “Any person” to “aircraft” substitute “Any person who has arrived in or left, or is seeking to arrive in or leave, the United Kingdom through the tunnel system”;
- (b) after paragraph 2(1) insert—
  - “(1A) An examination under sub—paragraph (1) may be commenced—
  - (a) in the case of a person who has arrived in or is seeking to leave the United Kingdom, in a control area, and
  - (b) in the case of a person who is seeking to arrive in or has left the United Kingdom, in a control zone in France.”;
- (c) omit paragraph 2(3) and (5);

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(20) 1989 c. 4; Schedule 5 was amended by S.I. 1990/2227, article 4 and Schedule 2.

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- (d) in paragraph 4(1) and (2) for the words “ship or aircraft”, wherever occurring, substitute “through train or shuttle train”;
- (e) omit paragraph 4(3);
- (f) in paragraph 4(6) and (8)(a) for the words “ship or aircraft” substitute “through train or shuttle train”;
- (g) omit paragraphs 4(9) and 5;
- (h) in paragraph 6(5) for the words from “on board a ship or aircraft” to “from the ship or aircraft” substitute “on board a through train or shuttle train may, under the authority of an examining officer, be removed from the train”, and omit the words after “this paragraph”;
- (i) omit paragraphs 6(6) and (8) and 7(2) and (3);
- (j) in paragraph 7(4) for the words “ship or aircraft” substitute “through train or shuttle train”;
- (k) omit paragraph 8;
- (l) for paragraph 9 substitute—

“9.—(1) The Secretary of State may from time to time give written notice to persons operating international services designating all or any through trains as control areas while they are within any area in the United Kingdom specified in the notice or while they constitute a control zone.

(2) The Secretary of State may from time to time give written notice designating a control area—

- (a) to the Concessionaires as respects any part of the tunnel system in the United Kingdom or of a control zone within the tunnel system in France, or
- (b) to any occupier or person concerned with the management of a terminal control point in the United Kingdom.

(3) A notice under sub—paragraph (1) or (2) above may specify facilities to be provided and conditions and restrictions to be observed in a control area, and any person to whom such a notice is given shall take all reasonable steps to secure that any such facilities, conditions or restrictions are provided or observed.”; and

- (m) omit paragraph 10.

## SCHEDULE 5

Article 8

### AMENDMENTS OF ENACTMENTS AND INSTRUMENTS

#### PART I

#### ENACTMENTS

##### *Immigration Act 1971*

1. In Schedule 2 to the Immigration Act 1971(21)—

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(21) 1971 c. 77; Schedule 2 was amended by the British Nationality Act 1981 (c. 61), section 39(6) and Schedule 4 paragraphs 2 and 3(1); by the Immigration Act 1988 (c. 14), section 10 and Schedule paragraphs 6 to 10; and by S.I.1990/2227.

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- (a) in paragraph 1(4) and (5), for the words from “aircraft” to “system, vehicle” substitute “or aircraft”; and
- (b) in paragraph 2(1), for the words “, aircraft or through the tunnel system” substitute “or aircraft”.

#### *Animal Health Act 1981*

- 2. In section 10(7) of the Animal Health Act 1981(22) for the words “article 5(1) to (4)” substitute “article 5(1) and (2)”.

#### *Prevention of Terrorism (Temporary Provisions) Act 1989*

- 3. In Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989(23), in paragraph 4(1) and (2)—
  - (a) for the words from “, aircraft”, in the first place where it occurs, to “vehicle”, in the first place where it occurs, substitute “or aircraft”; and
  - (b) for the words from “, aircraft”, in the second place where it occurs, to “vehicle”, in the second place where it occurs, substitute “or aircraft”.

## PART II

### INSTRUMENTS

#### *The Immigration (Particulars of Passengers and Crew) Order 1972*

- 1. The Immigration (Particulars of Passengers and Crew) Order 1972(24) is amended—
  - (a) in article 2 by inserting after the words “Act of Parliament” the words “; and in this Order the expressions “shuttle train”, “through train” and “train manager” have the same meanings as in the Channel Tunnel (International Arrangements) Order 1993”;
  - (b) by inserting after article 3(1)—
    - “(1A) This article also applies to through trains and shuttle trains arriving in the United Kingdom.”;
  - (c) by inserting after article 3(3)—
    - “(3A) In relation to a train to which this article applies, paragraph (2) of this article shall have effect as if the reference to the captain of a ship or aircraft were a reference to the train manager, and—
      - (a) in the case of a shuttle train, as if sub—paragraph (a) were omitted;
      - (b) in the case of a through train, as if the reference in sub—paragraph (a) to the ship or aircraft were a reference to the train; and
      - (c) in each case, as if the reference in sub—paragraph (b)(ii) to an aircraft were a reference to a through train or as the case may be a shuttle train and references to the aircraft were references to the train.”;
  - (d) in article 3(4) by inserting after the word “aircraft” the words “or the train manager of a train”; and

(22) 1981 c. 22; section 10(7) was amended by S.I. 1990/2371.

(23) 1989 c. 4; Schedule 5 was amended by S.I. 1990/2227.

(24) S.I. 1972/1667, to which there are amendments not relevant to this Order.

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- (e) in article 3(5) by inserting after the words “on a ship or aircraft” the words “or through train” and after the words “the ship or aircraft” the words “or the train manager of the train”.

*The Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974*

2. Article 2 of the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974(25) is amended—

- (a) by inserting after paragraph (1)—

“(1A) In this Order “control zone” has the same meaning as in the Channel Tunnel (International Arrangements) Order 1993.”; and
- (b) in paragraph (2) by substituting for the words from “vehicle” to “accordingly” the words “or aircraft, or immediately it is brought into a control zone in France, and “land” and “landing” shall be construed accordingly”.

*The Immigration (Landing and Embarkation Cards) Order 1975*

3. Article 4 of the Immigration (Landing and Embarkation Cards) Order 1975(26) is amended—

- (a) in paragraph (1) by inserting after the words “embarks in the United Kingdom” the words “, or leaves or boards in the United Kingdom a train which for the purposes of sections 11 and 12 of the Channel Tunnel Act 1987 is engaged on an international service,”; and
- (b) in paragraph (2) by inserting after the word “concerned” the words “or, as the case may be, by the person operating the international service”.

*The Immigration Appeals (Procedure) Rules 1984*

4.—(1) In this paragraph “the 1984 Rules” means the Immigration Appeals (Procedure) Rules 1984(27).

- (2) Rule 2 of the 1984 Rules is amended by inserting after paragraph (2)—

“(2A) In these Rules the following expressions have the same meaning as in the Channel Tunnel (International Arrangements) Order 1993—  
“control zone”;  
“shuttle train”;  
“through train”.”.
- (3) Rule 4 of the 1984 Rules is amended—
  - (a) in paragraph (1)(a) by inserting after the word “aircraft” the words “or through train or shuttle train”;
  - (b) by inserting after paragraph (1)(a)—

“(aa) where he is refused leave to enter while in a control zone in France and is a person who by virtue of section 13(3) of the Act would not be entitled to appeal while in the United Kingdom, not later than 28 days after the refusal;”;
  - (c) in paragraphs (1)(b), (9) and (10) by inserting after the word “aircraft”, wherever occurring, the words “or through train or shuttle train”.

(25) S.I. 1974/2221, amended by S.I. 1990/2371.

(26) S.I. 1975/65.

(27) S.I. 1984/2041.

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(4) Rule 6(1) of the 1984 Rules is amended by inserting in the proviso after the words “United Kingdom”, in the second place in which they occur, the words “or in a control zone in France”.

*The Immigration (Places of Detention) Direction 1987*

5. The Immigration (Places of Detention) Direction 1987 is amended—
- (a) in article 2 by inserting after the definition of “place of safety” the words “; and “control zone” and “tunnel system” have the same meanings as in the Channel Tunnel (International Arrangements) Order 1993 and “the 1993 Order” means that Order”;
  - (b) in article 3(2)(a)(i) by inserting after the words “as the case may be” the words “, or in a control zone or a control area designated under paragraph 26 of Schedule 2 to the Immigration Act 1971 as modified by the 1993 Order”; and
  - (c) in article 3(2)(a)(ii) by inserting after the words “at any port” the words “or in the tunnel system”.

*The Prevention of Terrorism (Temporary Provisions) (Places of Detention) Direction 1989*

6. The Prevention of Terrorism (Temporary Provisions) (Places of Detention) Direction 1989 is amended—
- (a) in article 3(1) by inserting after the definition of “the Act”  
““control zone”, “shuttle train” and “through train” have the same meanings as in the Channel Tunnel (International Arrangements) Order 1993 and “the 1993 Order” means that Order.”;
  - (b) in article 4(1) by substituting for the words after “Schedule 2” the words “to the Act otherwise than on board a ship or aircraft or whilst detained under paragraph 6 of Schedule 5 to the Act otherwise than on board a ship or aircraft or a through train or shuttle train.”; and
  - (c) in article 4(2) by inserting after sub—paragraph (b)—  
“(bb) in the case only of detention under paragraph 6 of Schedule 5 to the Act, any place so used or provided in a control zone or a control area designated under paragraph 9 of Schedule 5 to the Act as modified by the 1993 Order; or”.

*The Channel Tunnel (Customs and Excise) Order 1990*

7. In paragraphs 8 to 10 “the 1990 Order” means the Channel Tunnel (Customs and Excise) Order 1990(28) and in paragraphs 11 to 33 “the Schedule” means the Schedule to that Order.
8. Article 2 of the 1990 Order (interpretation) is amended—
- (a) in paragraph (2) by inserting below the word ““port;”” the word ““proper;””; and
  - (b) by inserting after paragraph (2)  
“(3) In this Order the following expressions have the same meaning as in the Channel Tunnel (International Arrangements) Order 1993  
“Concessionaires”;  
“control zone”;  
“international service”;  
“shuttle train”;

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“terminal control point”;  
“through train”;  
“train manager”.”.

**9.** Article 3 of the 1990 Order (Channel tunnel customs approved areas) is amended—

(a) in paragraph (1)—

- (i) by inserting after the word “conditions” the words “and restrictions”,
- (ii) by substituting for the words “within the tunnel system” the words “in the United Kingdom, and in France in a control zone within the tunnel system,”, and
- (iii) by substituting for the words “and any place” the words “, and may also so approve all or any through trains while they are within any area in the United Kingdom specified in the approval or while they constitute a control zone, and any place or train”; and

(b) by substituting for paragraph (6)—

“(6) Subject to paragraphs (6A) and (6B) below—

- (a) goods imported through the tunnel shall not be unloaded from the importing vehicle, and
- (b) goods to be exported through the tunnel shall not be loaded onto the exporting vehicle,

except at a place which is a customs approved area.

(6A) Paragraph (6) above does not apply, except in a case falling within paragraph (6B) below, so as to prevent, restrict or delay the movement between different member States of any goods entering or leaving the United Kingdom.

(6B) The cases mentioned in paragraph (6A) above are those where it appears to the Commissioners or the proper officer that there are reasonable grounds for believing that compliance with paragraph (6) above is required for purposes connected with—

- (a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
- (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods into or out of the member States; or
- (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.”.

**10.** Article 5 of the 1990 Order (time of importation, exportation etc.) is amended—

(a) in paragraph (1) by inserting after the words “customs and excise Acts” the words “and of any enactment under or by virtue of which any prohibition or restriction with respect to the importation or exportation of any goods is for the time being in force”; and

(b) by substituting for paragraphs (2) to (4)—

“(2) Goods intended to be brought into the United Kingdom through the tunnel shall be treated as being imported into the United Kingdom—

- (a) when they are taken into a control zone in France within the tunnel system, or
- (b) in the case of goods carried in a through train while it constitutes a control zone in France, when officers become authorised under Article 12 of the international articles to begin to carry out controls.”.

**11.** The Schedule is amended by inserting immediately below the heading “MODIFICATIONS OF THE ACT OF 1979”

**“Part II of the Act of 1979: Administration**

**A1.** In section 17(1) (disposal of duties, etc.) the reference to Great Britain shall be construed as including a reference to a control zone in France.”

**12.** The Schedule is amended by inserting immediately below the sub—heading “Part III of the Act of 1979: Customs and Excise Control Areas”—

**“A2.—(1)** For the purposes of section 21(**29**) (control of movement of aircraft, etc., into and out of the United Kingdom) references to an aircraft shall be treated as including references to a through train, and in relation to such trains section 21 shall be construed in accordance with sub—paragraphs (2) to (5).

(2) References to a customs and excise airport shall be construed as references to a terminal control point or a place which is a customs approved area.

(3) References to a flight shall be construed as references to a journey, and the reference in section 21(4) to flying shall be construed accordingly.

(4) References to landing shall be construed as references to stopping for the purpose of enabling passengers or crew to board or leave the train or goods to be loaded onto or unloaded from it.

(5) References to the commander of an aircraft shall be construed as references to the train manager of a train.”

**13.** Paragraph 1 of the Schedule is amended by inserting after the words “section 27” the words “and as if a through train fell within those paragraphs while it constituted a control zone in France”.

**14.** The Schedule is amended by inserting after paragraph 3—

**“3A.** In section 31(1)(**30**) (control of movement of goods to and from inland clearance depot, etc.) the reference to the place of importation shall be construed as including a reference to a customs approved area in France.”

**15.** Paragraph 4 of the Schedule is amended by substituting for the words after “the reference to” the words “a ship or aircraft departing from any place shall be construed as including a reference to a vehicle which departs from a place which is a customs approved area.”

**16.** The Schedule is amended by inserting after paragraph 4—

**“4A.—(1)** For the purposes of section 33 (power to inspect aircraft, aerodromes, records, etc.) references to an aircraft shall be treated as including references to a through train and to a shuttle train, and in relation to such trains section 33—

(a) shall have effect as if in section 33(3) the words from “licensed” to “other aerodrome” had not been enacted, and

(b) shall be construed in accordance with sub—paragraphs (2) and (3).

(2) The reference in section 33(1) to the commander of an aircraft shall be construed as a reference to the train manager of a train.

(29) Section 21 was amended by the Customs Controls on Importation of Goods Regulations 1991 (S.I.1991/2724), regulation 6(4) and (5), and the exercise of powers under the section was restricted by the Finance (No.2) Act 1992 (c. 48), section 4.

(30) Section 31 was amended by the Finance Act 1981 (c. 35), section 10(2) and Schedule 7, Part II, paragraph 1(1) to (4), and by the Finance Act 1984 (c. 43), section 8 and Schedule 4, Part II, paragraph 2.

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(3) References to an aerodrome shall be construed as references to a place which is a customs approved area.

**4B.**—(1) For the purposes of section 34(31) (power to prevent flight of aircraft) references to an aircraft shall be treated as including references to a through train, and in relation to such trains section 34 shall be construed in accordance with sub—paragraphs (2) to (4).

(2) References to a customs and excise airport shall be construed as references to a place which is a customs approved area.

(3) References to a flight shall be construed as references to a journey, and any cognate expression shall be construed accordingly.

(4) The reference in section 34(3) to the commander of an aircraft shall be construed as a reference to the train manager of a train.”.

**17.** Paragraph 5 of the Schedule is amended—

- (a) in sub—paragraph (1) by substituting for the word “vehicle” the words “through train” and for the words “a vehicle entering Northern Ireland by land” the words “a ship arriving at a port from a place outside the United Kingdom”; and
- (b) in sub—paragraph (2) by substituting for the word “vehicle” the words “through train” and for the words “a vehicle which has crossed the boundary into Northern Ireland” the words “a ship carrying goods arriving in or over United Kingdom waters, and in relation to such a vehicle the reference to the master of such a ship shall be construed as a reference to the person in charge of the vehicle”.

**18.** The Schedule is amended by inserting after paragraph 5—

“**5A.** In section 40(5)(32) (removal of uncleared goods to Queen’s warehouse) the references to a ship or aircraft shall be construed as including references to a through train.”.

**19.** Paragraph 6 of the Schedule is amended by substituting for the words after “vehicle arriving” the words “at a place which is a customs approved area either in France or through the tunnel from France”.

**20.** The Schedule is amended by substituting for paragraph 7—

“**7.** In section 49(1) (forfeiture of goods improperly imported)—

- (a) the reference in paragraph (a)(ii) to goods unloaded from any aircraft in the United Kingdom shall be construed as including a reference to goods unloaded from a through train or shuttle train which has brought them into the United Kingdom and a reference to goods otherwise brought through the tunnel into the United Kingdom; and
- (b) the reference in paragraph (c) to goods found to have been concealed on board any aircraft shall be construed as including references to goods found concealed—
  - (i) on a through train or shuttle train which has brought them into the United Kingdom,
  - (ii) on a through train while it constitutes a control zone in France, or
  - (iii) in a road vehicle in a control zone in France within the tunnel system.”.

(31) Section 34 was amended by the Isle of Man Act 1979 (c. 58), section 13 and Schedule 1; the exercise of powers under section 34 was restricted by the Finance (No.2) Act 1992, section 4.

(32) Section 40 was amended by the Finance Act 1981, section 10(1) and Schedule 6, paragraph 5.

**21.** Paragraph 8(a) of the Schedule is amended by inserting after the words “through the tunnel” the words “, or who brings or assists or is otherwise concerned in the bringing of such goods into a control zone in France,”.

**22.** Paragraph 9 of the Schedule is amended by inserting after the words “(authentication of Community customs documentation)” the words “and in section 62 (information, documentation, etc.as to export goods)”.

**23.** The Schedule is amended by inserting after paragraph 12—

“**12A.** In section 59(**33**) (restrictions on putting export goods alongside for loading)—

- (a) in construing the references in section 59(1) to shipment for exportation and in section 59(2)(a) to loading for exportation regard shall be had to paragraph 9 above; and accordingly
- (b) references in section 59(2) to a ship or aircraft shall be construed as including references to a vehicle.”.

**24.** Paragraph 13 of the Schedule is amended—

- (a) by inserting after the words “departing from” the words “a place which is”;
- (b) by substituting for the words “United Kingdom”, wherever occurring, the words “member States”; and
- (c) in sub—paragraph (a) by substituting for the words “person in charge of a vehicle” the words “train manager”.

**25.** Paragraph 14 of the Schedule is amended in sub—paragraph (2) by substituting—

- (a) for the words “person in charge of a vehicle” the words “train manager”, and
- (b) for the words “in charge thereof”, where first occurring, the words “the train manager”.

**26.** Paragraph 16 of the Schedule is amended by substituting for the words “person in charge of the vehicle” the words “train manager”.

**27.** The Schedule is amended by inserting after paragraph 17—

“**17A.** For the purposes of section 77(**34**) (information in relation to goods imported or exported) goods about to be loaded onto a vehicle for exportation through the tunnel shall be treated as goods about to be shipped for exportation, and the reference in subsection (3) to shipment shall be construed accordingly.

**17B.** For the purposes of section 78(**35**) (customs and excise control of persons entering or leaving the United Kingdom)—

- (a) a person intending to travel to the United Kingdom through the tunnel who has entered a control zone in France shall be treated as a person entering the United Kingdom,
- (b) a person who has travelled from the United Kingdom through the tunnel and is in such a control zone shall be treated as still being a person leaving the United Kingdom, and
- (c) concealment shall be taken to include concealment in such a control zone.

**17C.** For the purposes of section 83(1)(**36**) (penalty for removing seals, etc.)—

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(33) Section 59 was amended by the Finance Act 1981, section 10(2) and Schedule 7, Part II, paragraph 3.

(34) Section 77 was repealed in part by the Finance Act 1987 (c. 16), sections 10 and 72(7) and Schedule 16, Part III.

(35) Section 78 was amended by the Isle of Man Act 1979, section 13 and Schedule 1, and by the Finance (No.2) Act 1992, section 5; the exercise of powers under section 78 was restricted by the Finance (No. 2) Act 1992, section 4.

(36) Section 83 was amended by the Isle of Man Act 1979, section 13 and Schedule 1.

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- (a) goods which are in a control zone in France shall be treated as being in the United Kingdom, and
- (b) goods in a through train shall be deemed to be in the charge of the person operating the international service on which the train is engaged,

and for the purposes of section 83(3)(b) goods which are in a control zone in France within the tunnel system shall be treated as being in the United Kingdom.”.

**28.** Paragraph 18 of the Schedule is amended by inserting after the words “(whether in England or in France)” the words “and a reference to a through train, and the reference to the United Kingdom shall be construed as including a reference to a control zone in France”.

**29.** The Schedule is amended by inserting after paragraph 18—

“**18A.** In section 86(37) (special penalty where offender armed or disguised) the reference to the United Kingdom shall be construed as including a reference to a control zone in France.”.

**30.** The Schedule is amended by inserting immediately below the sub—heading “Part XI of the Act of 1979: Detention of Persons, Forfeiture and Legal Proceedings”

“**20A.** The power conferred by section 139(1) to seize or detain any thing liable to forfeiture shall be taken to include a power for any officer or constable to seize or detain any such thing in a control zone in France.”.

**31.** Paragraph 21 of the Schedule is amended by substituting for the words “person in charge of it” the words “train manager”.

**32.** Paragraph 22 of the Schedule is amended by inserting after the words “through the tunnel” the words “, and in relation to such a vehicle the second reference to the United Kingdom shall be construed as including a reference to a control zone in France within the tunnel system”.

**33.** The Schedule is amended by substituting for paragraph 25—

“**25.** The persons to whom section 164(38) (search of persons) applies shall be taken to include any person who is—

- (a) in the tunnel system in the United Kingdom;
- (b) in a through train in the United Kingdom;
- (c) in, entering or leaving a customs approved area in the United Kingdom; or
- (d) in a control zone in France.”.

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(37) Section 86 was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1).

(38) Section 164 was amended by the Isle of Man Act 1979, section 13 and Schedule 1, paragraph 6; by the Finance Act 1984, section 8 and Schedule 4, Part II, paragraph 6; and by the Finance Act 1988 (c. 39), section 10.

## SCHEDULE 6

Article 9

## REPEALS AND REVOCATIONS

## PART I

## REPEALS

Chapter	Short title	Extent of repeal
<a href="#">1971 c. 77.</a>	The Immigration Act 1971.	In section 4(2)(b) and wherever occurring in section 10(1), the words “or through the tunnel system”; section 11(1A); section 27(d); in section 33(1), the definitions of “Concessionaires” and “tunnel system”; in Schedule 2, in paragraph 3(1) and (2) the words from “or leaving” to “tunnel system”, in paragraph 8(1)(c) the words from “or where” to “Concessionaires”, paragraph 16(4A), in paragraphs 19(1) and 20(1) the words from “or, where” to “Concessionaires”, and paragraph 27A.
<a href="#">1988 c. 14.</a>	The Immigration Act 1988.	Section 8(8).
<a href="#">1989 c. 4.</a>	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In section 20(1), the definitions of “Concessionaires” and “the tunnel system”; in Schedule 5, in paragraph 2(1) the words from “or who” to “tunnel system”, and paragraph 9(3).

## PART II

## REVOCATIONS

Orders revoked	References	Extent of revocation
The Channel Tunnel (Customs and Excise) Order 1990.	<a href="#">S.I. 1990/2167</a>	Article 5(2) to (4) and (7); in the Schedule, paragraphs 7 and 25.
The Channel Tunnel (Fire Services, Immigration and Prevention of Terrorism) Order 1990.	<a href="#">S.I. 1990/2227</a>	Articles 3 and 4 and Schedules 1 and 2.

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