
STATUTORY INSTRUMENTS

1994 No. 570

The Channel Tunnel (Security) Order 1994

PART III

**PROTECTION OF CHANNEL TUNNEL TRAINS AND
THE TUNNEL SYSTEM AGAINST ACTS OF VIOLENCE**

Supplemental provisions with respect to directions

Matters which may be included in directions under articles 13 to 16.

17.—(1) A direction under paragraph (1) of article 13 or under article 14 or 15 of this Order may specify the minimum number of persons by whom any search to which the direction relates is to be carried out, the qualifications which persons carrying out any such search are to have, the manner in which any such search is to be carried out, and any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.

(2) A direction under paragraph (2) of article 13 of this Order may specify the qualifications required to be had by persons carrying out any modifications or alterations, or the installation of any additional apparatus or equipment, to which the direction relates.

(3) A direction under article 16 of this Order may specify—

- (a) the minimum number of persons to be employed for the purposes of any measures required by the direction to be taken by the person to whom it is given, and the qualifications which persons employed for those purposes are to have, and
- (b) any apparatus, equipment or other aids to be used for those purposes.

(4) Where a direction under any of the preceding provisions of this Part of this Order requires searches to be carried out, or other measures to be taken, by constables, the direction may require the person to whom it is given to inform the chief officer of police for the police area in which the searches are to be carried out or the other measures taken that the Secretary of State considers it appropriate that constables should be duly authorised to carry, and should carry, firearms when carrying out the searches or taking the measures in question.

(5) Nothing in paragraphs (1) to (4) above shall be construed as limiting the generality of any of the preceding provisions of this Part of this Order.

(6) In this article “qualifications” includes training and experience.

(7) In the application of this article to Northern Ireland for the words in paragraph (4) above from “chief officer” to “measures taken” there are substituted the words “chief constable of the Royal Ulster Constabulary”.

Limitations on scope of directions under articles 13 to 16

18.—(1) Without prejudice to articles 14(7), 15(7) and 17(4) of this Order, a direction shall not require or authorise any person to carry a firearm.

(2) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this paragraph shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by a constable, or its use by any other person in the exercise of a power conferred by article 14(3) or 15(3) of this Order.

(3) In so far as a direction given to the Concessionaires or to any person mentioned in article 16(1)(c), (d) or (e) of this Order requires a building or other works to be constructed, executed, altered, demolished or removed on land outside the tunnel system, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having—

- (a) an interest in that land, or
- (b) a right to occupy that land, or
- (c) a right restrictive of its use;

and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.

(4) Nothing in this article shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part of the Order.

(5) In this article “direction” means a direction under article 13, 14, 15 or 16 of this Order.

General or urgent directions under articles 13 to 16

19.—(1) A direction given to any person under article 13, 14, 15 or 16 of this Order need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.

(2) If it appears to the Secretary of State that an exception from any direction given under any of those articles is required as a matter of urgency in any particular case he may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction—

- (a) in relation to such Channel Tunnel trains or class of Channel Tunnel trains, in relation to the tunnel system or such part of the tunnel system, in relation to such land, building or works outside the tunnel system, in relation to such activities or in relation to such persons or property or such description of persons or property, and
- (b) on such occasion or series of occasions, or for such period,

as he may specify; and the direction shall have effect in that case subject to any exceptions so specified.

(3) Any notification given to any person under paragraph (2) above with respect to any direction shall cease to have effect (if it has not already done so)—

- (a) if a direction in writing is subsequently given to that person varying or revoking the original direction, or
- (b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.

(4) Any notification given under paragraph (2) above shall be regarded as given to the person to whom it is directed if it is given—

- (a) to any person authorised by that person to receive any such direction or notification,

- (b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate, and
- (c) in any other case, to anyone holding a comparable office or position in that person's employment.

Objections to certain directions under article 16

20.—(1) This article applies to any direction given under article 16 of this Order which—

- (a) requires a person to take measures consisting of or including the construction, execution, alteration, demolition or removal of a building or other works, and
- (b) does not contain a statement that the measures are urgently required and that accordingly the direction is to take effect immediately.

(2) At any time before the end of the period of thirty days beginning with the date on which a direction to which this article applies is given, the person to whom the direction is given may serve on the Secretary of State a notice in writing objecting to the direction, on the grounds that the measures specified in the direction, in so far as they relate to the construction, execution, alteration, demolition or removal of a building or other works—

- (a) are unnecessary and should be dispensed with, or
- (b) are excessively onerous or inconvenient and should be modified in a manner specified in the notice.

(3) Where the person to whom such a direction is given serves a notice under paragraph (2) above objecting to the direction, the Secretary of State shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—

- (a) confirming the direction as originally given, or
- (b) confirming it subject to one or more modifications specified in the notice under this paragraph, or
- (c) withdrawing the direction;

and the direction shall not take effect until it has been confirmed (with or without modification) by a notice served under this paragraph.

Enforcement notices

21.—(1) Where an authorised person is of the opinion that any person has failed to comply with any general requirement of a direction given to him under article 13, 14, 15 or 16 of this Order, the authorised person may serve on that person a notice (in this Order referred to as an “enforcement notice”)—

- (a) specifying those general requirements of the direction with which he has, in the opinion of the authorised person, failed to comply, and
- (b) specifying, subject to article 22 of this Order, the measures that ought to be taken in order to comply with those requirements.

(2) For the purposes of this article a requirement of a direction given by the Secretary of State under article 13, 14, 15 or 16 of this Order is a “general requirement” if the provision imposing the requirement—

- (a) has been included in two or more directions given to different persons (whether or not at the same time), and
- (b) is framed in general terms applicable to all the persons to whom those directions are given.

(3) If an enforcement notice is served under this article on the owner or operator of any Channel Tunnel train, then (whether or not that service is effected by virtue of article 36(6) of this Order)

an authorised person may serve on the train manager—

(a) a copy of the enforcement notice and of the direction to which it relates, and

(b) a notice stating that the train manager is required to comply with the enforcement notice,

and if he does so, articles 23, 24 and 25 of this Order shall have effect as if the enforcement notice had been served on him as well as on the owner or operator of the train.

Contents of enforcement notices

22.—(1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Secretary of State under the provision under which the direction was given.

(2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.

(3) Subject to paragraph (4) below, an enforcement notice which relates to a direction given under article 13 of this Order must require the person to whom the direction was given not to cause or permit things to be done as mentioned in paragraphs (1)(a) or (b) or (2) of that article, as the case requires, until the specified measures have been taken.

(4) In serving an enforcement notice which relates to a direction under article 13(2) of this Order, the authorised person shall allow, and shall specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.

(5) An enforcement notice which relates to a direction given under articles 14, 15 or 16 of this Order must either—

(a) require the person to whom the direction was given to take the specified measures within a specified period which

(i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and

(ii) in any other case, must not be less than seven days beginning with that date; or

(b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.

(6) Subject to article 25(2) of this Order, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

Offences relating to enforcement notices

23.—(1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(2) Where a person is convicted of an offence under paragraph (1) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction,

he is guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 5 on the standard scale for each day on which the failure continues.

(3) Any person who intentionally interferes with any building constructed or other works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice is guilty of an offence and liable—

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

Objections to enforcement notices

24.—(1) The person on whom an enforcement notice is served may serve on the Secretary of State a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.

(2) Any notice of objection under paragraph (1) above must be served—

- (a) where the enforcement notice specifies measures falling within article 22(5)(a)
 - (i) of this Order, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
- (b) in any other case, before the end of the period of seven days beginning with that date.

(3) The grounds of objection to an enforcement notice are—

- (a) that the general requirements of the direction which are specified in the notice for the purposes of article 21(1)(a) of this Order have been complied with,
- (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
- (c) that any requirement of the notice—
 - (i) is unnecessary for complying with the general requirements specified as mentioned in sub-paragraph (a) above and should be dispensed with, or
 - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under paragraph (1) above.

(4) Where the person on whom an enforcement notice is served serves a notice under paragraph (1) above objecting to the enforcement notice, the Secretary of State shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—

- (a) confirming the enforcement notice as originally served, or
- (b) confirming it subject to one or more modifications specified in the notice under this paragraph, or
- (c) cancelling the enforcement notice.

(5) An enforcement notice to which an objection has been made under paragraph (1) above—

- (a) if it contains such a requirement as is mentioned in article 22(3) or (5)(b) of this Order, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under paragraph (4) above, and
- (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under paragraph (4) above.

Enforcement notices: supplementary

25.—(1) An enforcement notice served on any person—

- (a) may be revoked by a notice served on him by an authorised person, and
- (b) may be varied by a further enforcement notice.

(2) Articles 17 and 18 of this Order apply to an enforcement notice as they apply to the direction to which the notice relates.

(3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land, building or works in compliance with an enforcement notice.

(4) Where an authorised person has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorised person, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of article 13(8), 14(8), 15(8) or 16(7) of this Order, to have failed to comply with the direction by reason of the matters specified in the notice.

(5) Paragraph (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.

(6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorised person, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.

(7) In this article “direction” means a direction under article 13, 14, 15 or 16 of this Order.

Operation of directions under Part III in relation to other rights and duties

26.—(1) In paragraph (2) below references to a direction are references to a direction under article 13, 14, 15 or 16 of this Order as the direction has effect subject to any limitation imposed on its operation—

- (a) by article 18 of this Order, or
- (b) by any exemption or immunity of the Crown;

and any reference in those articles to compliance with a direction is a reference to compliance with it subject to any limitation so imposed.

(2) In so far as a direction requires anything to be done or not done, the direction shall have effect notwithstanding anything contained in any contract (whether a United Kingdom contract or not) or contained in, or having effect by virtue of, any Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any United Kingdom court by reason of anything done or not done by him or on his behalf in compliance with a direction.

(3) Paragraphs (1) and (2) above have effect in relation to an enforcement notice as they have effect in relation to a direction under article 13, 14, 15 or 16 of this Order.

(4) In this article “United Kingdom court” means a court exercising jurisdiction in any part of the United Kingdom under the law of the United Kingdom or of part of the United Kingdom, and “United Kingdom contract” means a contract which is either expressed to have effect in accordance with the law of the United Kingdom or of part of the United Kingdom or (not being so expressed) is a contract the law applicable to which is the law of the United Kingdom or of part of the United Kingdom.

Detention of Channel Tunnel trains

27.—(1) Where an authorised person is satisfied that the owner, operator or train manager of a Channel Tunnel train has failed to comply with—

- (a) a direction given to him under article 13, 14, 15 or 16 of this Order in respect of that train, or
- (b) an enforcement notice which has been served on him in respect of that train and which relates to such a direction,

and the authorised person certifies in writing to that effect, stating particulars of the non compliance, the train may be detained until the authorised person otherwise directs.

(2) Where the authorised person does not himself detain the train, he shall deliver the certificate to the officer detaining the train.

(3) On detaining the train, the authorised person or other officer shall deliver to the train manager of the train a copy of the certificate.

Inspection of Channel Tunnel trains and the tunnel system

28.—(1) For the purpose of enabling the Secretary of State to determine whether to give a direction to any person under any of articles 13 to 16 of this Order, or of ascertaining whether any such direction or any enforcement notice is being or has been complied with, an authorised person shall have power, on production (if required) of his credentials, to inspect—

- (a) any Channel Tunnel train,
- (b) any part of the tunnel system, or
- (c) any land, building or works outside the tunnel system which is occupied for the purposes of a business by a person who
 - (i) carries on (or appears to the authorised person to be about to carry on) operations in the tunnel system for the purposes of that business,
 - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone for the purposes of the activities of that business, or
 - (iii) carries on (or appears to the authorised person to be about to carry on) operations outside the tunnel system in connection with the operation of Channel Tunnel trains or the tunnel system or persons or goods to be carried in or on any Channel Tunnel train.

(2) An authorised person inspecting a Channel Tunnel train or any part of the tunnel system or any land, building or works outside the tunnel system under paragraph (1) above shall have power—

- (a) to subject any property found by him on the train (but not the train itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the tunnel system or any property found by him there or on that land or in that building or in or on those works, to such tests,
- (b) to take such steps
 - (i) to ascertain what practices or procedures are being followed in relation to security, or
 - (ii) to test the effectiveness of any practice or procedure relating to security, or
- (c) to require the owner, operator or train manager of the train, the Concessionaires or, as the case may be, the occupier of the land, building or works to furnish to him such information,

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to paragraph (4) below, an authorised person, for the purpose of exercising any power conferred on him by paragraph (1) or (2) above in relation to a Channel Tunnel train, in relation to the tunnel system or in relation to any land, building or works outside the tunnel system shall have power—

- (a) for the purpose of inspecting a train, to go on board it and to take all such steps as are necessary to ensure that it is not moved, or

- (b) for the purpose of inspecting any part of the tunnel system, to enter any building or works in the tunnel system or enter upon any land in the tunnel system, or
 - (c) for the purpose of inspecting any land, building or works outside the tunnel system to enter upon the land and to enter any building or works on the land.
- (4) The powers conferred by paragraph (3) above shall not include power for an authorised person to use force for the purpose of going on board any train, entering any building or works or entering upon any land.
- (5) The powers conferred by paragraphs (1) to (3) above shall not apply in the case of premises used only as a private dwelling.
- (6) Any person who—
- (a) without reasonable excuse, fails to comply with a requirement imposed on him under paragraph (2)(c) above, or
 - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,
- commits an offence.
- (7) A person guilty of an offence under paragraph (6) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.