
STATUTORY INSTRUMENTS

1998 No. 1015

CHANNEL TUNNEL

The Channel Tunnel (Carriers' Liability) Order 1998

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| <i>Made</i> | - - - - | <i>8th April 1998</i> |
| <i>Laid before Parliament</i> | | <i>8th April 1998</i> |
| <i>Coming into force</i> | - - | <i>9th April 1998</i> |

In exercise of the powers conferred on the appropriate Minister by section 11 of the Channel Tunnel Act 1987(1), the Secretary of State for the Home Department hereby makes the following Order:

Citation and Commencement

1. This Order may be cited as the Channel Tunnel (Carriers' Liability) Order 1998 and shall come into force on 9th April 1998.

Interpretation

2. In this Order, “through train” means a train, other than a shuttle train as defined in section 1(9) of the Channel Tunnel Act 1987, which for the purposes of sections 11 and 12 of that Act is engaged on an international service, within the meaning of section 13(6) of that Act.

Extension of Carriers' Liability to the Channel Tunnel

3.—(1) Section 1 of the Immigration (Carriers' Liability) Act 1987(2) shall have effect in relation to a person requiring leave to enter the United Kingdom who arrives in the United Kingdom on a through train as it has effect in relation to such a person who so arrives by ship or aircraft, subject to the following modifications.

(2) Section 1 shall so have effect as if:

- (a) for the words “ship or aircraft” where they appear—
 - (i) for the first time in subsection (1); and
 - (ii) in subsection (2),there were substituted the words “through train”;

(1) 1987 c. 53.

(2) 1987 c. 24, as amended by the Asylum and Immigration Appeals Act 1993 (c. 23), section 12, and as extended by the Immigration (European Economic Area) Order 1994 (S.I.1994/1895), Article 19.

- (b) for the words “owners or agents of the ship or aircraft” in subsection (1) and for the words “owners or agents” in subsection (2), there were substituted the words “relevant train operator”;
- (c) for the words “to them or an employee of theirs” where they appear in subsection (2), there were substituted the words “to an employee or an agent of his”;
- (d) for the words “voyage or flight” where they appear in subsection (2), there were substituted the word “journey”;
- (e) the following subsection were inserted after subsection (2):
 - “(2A) Nor shall any liability be incurred under subsection (1) if, under the law of the country in which the person embarked on the through train for carriage to the United Kingdom, the employees or agents of the relevant train operator could not lawfully have—
 - (a) required him when embarking to produce the document or documents specified in subsection (1); and
 - (b) refused him carriage for failing to produce the document or documents so specified.”; and
- (f) the following were substituted for subsection (3):
 - “(3) In this section:
 - “prescribed” means prescribed by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament;
 - “relevant train operator” means the operator of through trains who embarked the person concerned for carriage to the United Kingdom on the through train on which he arrived; and
 - “through train” means a train, other than a shuttle train as defined in section 1(9) of the Channel Tunnel Act 1987, which for the purposes of sections 11 and 12 of that Act is engaged on an international service, within the meaning of section 13(6) of that Act.”

Transitional

4. This Order shall not have effect in relation to the arrival of a person in the United Kingdom on a through train whose journey on that train began prior to its coming into force.

Home Office
8th April 1998

Jack Straw
One of Her Majesty’s Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends, subject to appropriate modifications, section 1 of the Immigration (Carriers' Liability) Act 1987 to persons arriving on international train services operating through the Channel Tunnel, other than on the shuttle train operating between Cheriton, Folkestone and Fréthun. The modifications made include a new defence where it is not lawful for operators of international train services in the country of embarkation to check a passenger's travel documents or refuse carriage to those without proper travel documents. France is such a country and, accordingly, the requirement does not apply in respect of passengers embarking on such train services in France.