
STATUTORY INSTRUMENTS

2003 No. 2818

**The Nationality, Immigration and Asylum
Act 2002 (Juxtaposed Controls) Order 2003**

PART 3

**PROVISIONS RELATING TO THE EXERCISE OF POWERS
BY UNITED KINGDOM IMMIGRATION OFFICERS
AND CONSTABLES IN A CONTROL ZONE IN FRANCE**

Enactments having effect in a Control Zone in France

11.—(1) For the purpose of enabling immigration officers to exercise immigration control in a Control Zone in France, the following shall have effect in relation to a person in a Control Zone in France, or anything done in that Zone, with the modifications set out in Schedule 2 to this Order—

- (a) the 1971 Act⁽¹⁾;
- (b) Schedules 7, 8 and 14 to the Terrorism Act 2000⁽²⁾;
- (c) the Code of Practice for examining officers under The Terrorism Act 2000⁽³⁾;
- (d) the Immigration (Leave to Enter and Remain) Order 2000⁽⁴⁾; and
- (e) the Immigration (European Economic Area) Regulations 2000⁽⁵⁾.

(2) Paragraphs 2 (powers and duties of detainee custody officers) and 3 (short-term holding facilities) of Schedule 11, and paragraph 2 of Schedule 13 (powers and duties of detainee custody officers), to the Immigration and Asylum Act 1999 shall have effect in relation to a detainee custody officer in a Control Zone in France as they have effect in relation to such an officer in the United Kingdom and, in the definition of “short-term holding facility” in section 147 of that Act, the reference to “a place” includes a place in a Control Zone in France.

(3) Sections 19B (discrimination by public authorities) and 19D (exception from section 19B for certain acts in immigration and nationality cases) of the Race Relations Act 1976⁽⁶⁾ shall have effect in relation to immigration officers carrying out their functions in a Control Zone in France as they have effect in relation to such officers carrying out their functions in England and Wales and Scotland.

(1) Relevant amendments to the 1971 Act are as follows: section 33 and paragraphs 4, 9 and 22 of Schedule 2 were amended by section 12 (1) of, and paragraph 5 of Schedule 2 to, the Asylum and Immigration Act 1996 (c. 49); paragraph 4 (2) of Schedule 2 was inserted by section 10 of the Immigration Act 1988 (c. 14); paragraphs 2, 2A, 7, 16, 18, 21, 22 and 26 of Schedule 2 were inserted or amended by section 169 of, and Schedule 14 to, the Immigration and Asylum Act 1999 (c. 33) and section 28G and paragraph 25B of Schedule 2 was inserted by section 134 of that Act; and paragraph 10A of Schedule 2 was inserted by section 73 of the Nationality, Immigration and Asylum Act 2002.

(2) 2000 c. 11.

(3) The Code was issued pursuant to paragraph 6 (1) of Schedule 14 to the Terrorism Act 2000.

(4) S.I.2000/1161.

(5) S.I. 2000/2326. The 2000 Regulations were amended by the Immigration (European Economic Area) (Amendment) Regulations 2003 (S.I. 2003/549).

(6) 1976 c. 74. Sections 19B and 19D were inserted by section 1 of the Race Relations (Amendment) Act 2000 (c. 34).

(4) The Data Protection Act 1998 shall have effect in relation to data which are processed in a Control Zone in France in connection with the carrying out of immigration control by an immigration officer or a constable, or the exercise of a power of arrest by a constable under article 13 (3) of this Order, as if, for the purposes of section 5 of that Act, the data were processed by a data controller established in the United Kingdom in the context of that establishment.

(5) The law of England and Wales shall have effect in relation to any claim for compensation which may be alleged against, or by, a constable or an immigration officer for loss or injury in the exercise of his functions in a Control Zone in France as if the circumstances giving rise to the claim had occurred in England.

Application of criminal law to a Control Zone in France

12.—(1) An act or omission which constitutes an offence under one of the following provisions of the 1971 Act shall also be an offence if it takes place in a Control Zone in France—

- (a) section 24A (1)(a) and (3)(7) (deception);
- (b) section 25 (assisting unlawful immigration to member state), but as if subsections (4) and (5) were omitted;
- (d) section 25A (helping asylum seeker to enter United Kingdom);
- (e) section 25B (assisting entry to United Kingdom in breach of deportation or exclusion order)(8);
- (f) section 26 (general offences in connection with administration of Act); and
- (g) section 27(c) (offences by persons connected with ships or aircraft or with ports) but as if the words “or aircraft” and “or disembarkation” were omitted.

(2) An act or omission which constitutes an offence under the law of England and Wales if committed by a constable or an immigration officer in the exercise of his functions shall also be an offence if it takes place in a Control Zone in France by such an officer in the exercise of his functions.

(3) An act or omission which constitutes an offence under paragraph 4 (assaulting a detainee custody officer) or paragraph 5 (obstructing detainee custody officers) of Schedule 11 to the Immigration and Asylum Act 1999 shall also be an offence if it takes place in a Control Zone in France.

(4) An act or omission which constitutes an offence under paragraph 18 of Schedule 7 to the Terrorism Act 2000 shall also be an offence if it takes place in a Control Zone in France.

(5) A provision of the criminal law in force in England and Wales for the protection of constables or immigration officers, or their property (including property in their possession or control), shall apply also in a Control Zone in France.

(6) Summary proceedings for an offence committed in a Control Zone in France by virtue of this article and which is an offence triable summarily or triable either way may be taken, and the offence may for all incidental purposes be treated as having been committed, in the county of Kent or in the inner London area as defined in article 2(3) of the Justices of the Peace (Commission Areas) Order 1999(9).

Powers of arrest and search outside United Kingdom

13.—(1) An immigration officer may in a Control Zone in France exercise the powers of arrest conferred by—

(7) Section 24A was inserted by section 28 of the Immigration and Asylum Act 1999.

(8) Sections 25, 25A and 25B of the 1971 Act were substituted for section 25 of that Act by section 143 of the Nationality, Immigration and Asylum Act 2002.

(9) S.I. 1999/3010.

- (a) section 28A (1), (3)(10) and (5) of the 1971 Act; and
- (b) paragraph 17(1) of Schedule 2 to the 1971 Act,

in respect of an offence under that Act or in respect of an offence under that Act as applied by this Order.

(2) Where an immigration officer makes a request to a police officer of the rank of sergeant or above for assistance in arresting a person in a Control Zone in France in respect of an offence under the 1971 Act or in respect of an offence under that Act as applied by article 12(1) of this Order, a constable of the police force of which that officer is a member may in such a Control Zone exercise any power of arrest conferred by the 1971 Act or by the 1984 Act, and any such request shall be recorded in writing at the time it is made or as soon as practicable afterwards.

(3) A constable may in a Control Zone in France exercise any power of arrest conferred by the 1984 Act in respect of an offence as applied by article 12(2) to (5) of this Order which is committed in a Control Zone in France.

(4) Any power conferred by the 1971 Act or the 1984 Act to search an arrested person or a vehicle or to seize anything following an arrest authorised by this article may be exercised as if the person had been arrested in England.

Arrested persons held in France

14.—(1) Where an arrest of any kind provided for by article 13 has been made in a Control Zone in France, the person arrested may be detained 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) Where a constable exercises a power of arrest pursuant to article 13(2) or (3), the person arrested shall be treated as if the place where he is held were, for the purposes of sections 36(7) and (8), 54, 55, 56, 58 and 61 to 63(11) 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, a police station in England, not being a police station designated under section 35 of the 1984 Act.

Arrested persons arriving in the United Kingdom

15.—(1) Where—

- (a) an arrest has been made by a constable or an immigration officer in a Control Zone in France, and
- (b) the person arrested enters the United Kingdom while under arrest,

the person arrested shall be taken to a police station.

(2) The person arrested shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and that Part shall have effect in relation to him as if the relevant time mentioned in section 41(2) were the time at which he arrives in the United Kingdom.

(10) Section 28A was inserted by section 128 of the Immigration and Asylum Act 1999 and subsection (3) was amended by section 144 of the Nationality, Immigration and Asylum Act 2002.

(11) Section 61 was amended by section 168 (2) of, and paragraph 56 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), by section 78 of the Criminal Justice and Police Act 2001 (c. 16) and by section 107 (1) of, and paragraph 9 of Schedule 7 to, the Police Reform Act 2002; section 62 was amended by sections 54 and 168 of, and Schedule 10 to, the Criminal Justice and Public Order Act 1994 and by section 54 of the Police Reform Act 2002; section 63 was amended by sections 55 and 168 of, and Schedule 10 to, the Criminal Justice and Public Order Act 1994 and by section 107 of, and paragraph 9 of Schedule 7 to, the Police Reform Act 2002.

Arrests of constables and immigration officers

16.—(1) This article applies where a constable or an immigration officer is arrested in respect of an act performed in a Control Zone in France.

(2) If the competent French authorities determine that the act was performed by the officer whilst in the exercise of his functions he shall, on being handed over by those authorities to a constable, be treated as having been arrested by the constable.

(3) The officer shall be taken to a police station designated under section 35 of the 1984 Act.

(4) The officer shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and that Part shall have effect in relation to him as if the relevant time mentioned in section 41(2) were the time at which he arrives in the United Kingdom.