
STATUTORY INSTRUMENTS

2009 No. 2081

The Channel Tunnel (International Arrangements) (Amendment) Order 2009

Citation and commencement

1.—(1) This Order may be cited as the Channel Tunnel (International Arrangements) (Amendment) Order 2009.

(2) This Order comes into force—

(a) for the purposes of articles 2(2) to 2(4), 2(7) and 3, on the date on which the regulation of the Intergovernmental Commission on the use of the Channel Tunnel, done on 23rd July 2009(1) (being a regulation drawn up under article 10(3)(e) of the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the construction and operation by private concessionaires of a Channel fixed link signed at Canterbury on 12th February 1986(2)) comes into force, as provided for in article 13.2 of that regulation, and

(b) for all other purposes, on 25th August 2009.

(3) The Secretary of State shall give notice in the London, Edinburgh and Belfast Gazettes of the date provided for in paragraph (2)(a).

Amendment of Order

2.—(1) The Channel Tunnel (International Arrangements) Order 2005(3) is amended as follows.

(2) In article 2 (interpretation), in the definition of “Directives”—

(a) in sub-paragraph (a), for the words “and Directive 2004/51 dated 29th April 2004, both of the European Parliament and of the Council”, substitute “, Directive 2004/51/EC dated 29th April 2004 and Directive 2007/58/EC dated 23rd October 2007(4), each of the European Parliament and of the Council”; and

(b) in sub-paragraph (c), after the word “certification”, insert “as amended by Directive 2007/58/EC dated 23rd October 2007, both”.

(3) In article 2, in the definition of “infrastructure manager”, “international grouping” and “railway undertaking”, for the words “and Directive 2004/51 dated 29th April 2004, both of the European Parliament and of the Council”, substitute “, Directive 2004/51/EC dated 29th April 2004 and Directive 2007/58/EC dated 23rd October 2007, each of the European Parliament and of the Council”.

(4) In article 3 (application of international articles), omit the words “come into force and” and the words after “United Kingdom”.

(1) The text of that regulation appears in the Schedule to this Order.

(2) Presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs by Command of Her Majesty February 1986, and published as Treaty Series No. 15 (1992), Command Paper 1827 (out of print but copies may be obtained from the British Library).

(3) S.I. 2005/3207, amended by S.I. 2007/3531 and 2008/2366.

(4) OJ No. L 315, 3.12.2007, p.44.

- (5) In article 5 (application of civil law), after paragraph (2), add the following paragraph—
- “(3) Without prejudice to the right which any person may have by virtue of paragraph (1) to bring civil proceedings in respect of any breach of duty, the obligation to comply with the provisions referred to in that paragraph shall be enforceable by civil proceedings by the Intergovernmental Commission for an injunction or for interdict or any other relief.”
- (6) After article 5, add the following articles—

“Making of false statements etc.

6.—(1) If any person, in giving any information or making any application under or for the purposes of any provision of this Order, makes any statement which that person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he or she is guilty of an offence and shall be liable—

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

(2) No proceedings shall be instituted in England or Wales in respect of an offence under this article, except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

Offences by bodies corporate and Scottish partnerships

7.—(1) Where an offence under this Order has been committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he or she as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

(3) Where a Scottish partnership is guilty of an offence under this Order in Scotland and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he or she as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

(7) Subject to article 3, for the content of the Schedule, substitute the content of the Schedule to this Order.

Transitional arrangements

3. The substitution, under paragraph 2(7), of Article 3 of the Schedule to the Channel Tunnel (International Arrangements) Order 2005 shall not apply before 1st January 2010, and that Article, in its unamended form, shall continue to have effect until 31st December 2009 inclusive.

Signed by authority of the Secretary of State for Transport

25th July 2009

C.D. Mole
Parliamentary Under Secretary of State
Department for Transport