

EXPLANATORY MEMORANDUM TO
THE CHANNEL TUNNEL (INTERNATIONAL ARRANGEMENTS AND
MISCELLANEOUS PROVISIONS) (AMENDMENT) ORDER 2020

2020 NO. 915

AND

THE CHANNEL TUNNEL (ARRANGEMENTS WITH THE KINGDOM OF THE
NETHERLANDS) ORDER 2020

2020 NO. 916

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instruments

- 2.1 The purpose of the Channel Tunnel (International Arrangements and Miscellaneous Provisions) (Amendment) Order 2020 (“the Quadripartite Agreement Order”) is to give effect to the Agreement between the Government of the French Republic, the Government of the Kingdom of Belgium, the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland amending and supplementing the Agreement between the Government of the Kingdom of Belgium and the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland, concerning Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link with Protocol, done at Brussels on 15 December 1993, done at Brussels on 7 July 2020, hereinafter called the “**Quadripartite Agreement**”.
- 2.2 The Quadripartite Agreement amends and supplements the 1993 Agreement between France, Belgium and the United Kingdom that currently underpins the operation of juxtaposed immigration controls on international passenger rail services (the “**Tripartite Agreement**”), which was incorporated into domestic law by the Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405) (“the 1994 Order”). The Quadripartite Agreement extends the scope of the Tripartite Agreement to include services running to and from the Netherlands and makes some amendments to the existing regime.
- 2.3 In particular, the Quadripartite Agreement makes provision for the exercise of juxtaposed controls in all four countries in relation to trains travelling between the UK and, for the first time, the Netherlands and specifies the approach to be taken to border controls across the network in all stations at which control zones are delimited in the territory of all four countries.
- 2.4 The Quadripartite Agreement Order also takes the opportunity to update legislative references in the 1994 Order that are now out of date.
- 2.5 Pending ratification of the Quadripartite Agreement, a bilateral Agreement between the United Kingdom and the Netherlands (known as the Agreement between the

United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands, concerning Border Controls on Rail Traffic between the Netherlands and the United Kingdom using the Channel Fixed Link, done at the Hague on 10 July 2020) (“the Bilateral Agreement”) will allow for the implementation of juxtaposed controls in the Netherlands in relation to trains travelling between the Netherlands and the United Kingdom via the Channel Tunnel (known officially as the “Channel Fixed Link”).

- 2.6 The purpose of the Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020 (“the Netherlands Extension Order”) is to give effect to the Bilateral Agreement.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of these instruments includes Scotland and Northern Ireland.
- 3.3 While the international rail traffic to which these Orders apply currently terminates in England, the territorial application remains the whole of the United Kingdom.

4. Extent and Territorial Application

- 4.1 The territorial extent of these instruments is the United Kingdom.
- 4.2 The territorial application of these instruments is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As these instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Section 11 of the Channel Tunnel Act 1987 provides that the appropriate Minister may by order make provision as appears to him to be necessary or expedient with respect to controls in relation to persons or goods at authorised terminal control points outside the tunnel system for trains on international services. These instruments make the necessary provisions relating to border controls on persons travelling between the UK and the Netherlands using the Channel Fixed Link.
- 6.2 Various international agreements and arrangements currently govern that route as far as Brussels Midi station in Belgium, including the Tripartite Agreement (and the Protocol to that Agreement), administrative arrangements made pursuant to that instrument in 2004 and 2007 and a 2013 bilateral Agreement between the UK and Belgium. These taken together provide the basis for juxtaposed controls in respect of trains travelling between Belgium and the UK via the Channel Tunnel. The Tripartite Agreement will be amended and supplemented by the Quadripartite Agreement and will provide a legal basis for the exercise of border controls on all UK bound rail passengers travelling via the Channel Fixed Link from international rail stations in the

Netherlands and Belgium. The Sangatte Protocol and the Additional Protocol to the Sangatte Protocol, and arrangements made thereunder, make separate provision for international trains travelling via the Channel Fixed Link that originate or terminate in France.

- 6.3 The Quadripartite Agreement Order and the Netherlands Extension Order will be laid together before Parliament and will bring into force domestically the provisions set out in the Bilateral Agreement in relation to the exercise of border controls on rail traffic between the UK and the Netherlands. These Orders will allow for the exercise of border controls by British officers in the Netherlands.

7. Policy background

What is being done and why?

- 7.1 The UK currently operates border controls in France and Belgium. This allows Border Force officers to conduct immigration, and in some locations, policing and goods checks, on passengers and freight destined for the UK before they begin their journey¹. This is a reciprocal arrangement, with French officers completing entry checks at certain ports in the UK on passengers and freight destined for continental Europe.
- 7.2 Operating juxtaposed controls on key ferry and rail services between the UK and continental Europe has enabled the UK to deliver a high level of border security. By enabling Border Force officers to conduct border controls on passengers and freight prior to departure, juxtaposed controls have been crucial in significantly reducing the number of inadequately documented arrivals and in providing earlier intervention to prevent those who seek to do harm from reaching the UK. Juxtaposed controls are also a key enabler of border fluidity, allowing passengers, private vehicles and freight on key routes to disembark in their country of arrival, having already been cleared through UK border checks in their country of departure.
- 7.3 For Eurostar services specifically, Border Force officers currently work at juxtaposed controls in France and Belgium to conduct immigration checks only (i.e. not customs controls). French Police aux Frontières currently undertake the Schengen entry checks (immigration checks) on behalf of France, Belgium and the Netherlands in London St Pancras International, Ebbsfleet International and Ashford International.
- 7.4 In April 2018, Eurostar commenced operating services between the UK and the Netherlands. As there are no juxtaposed controls in the Netherlands, it was agreed that these services could only operate on a direct basis from London to the Netherlands, with return services requiring a ‘hub-stop’ in Brussels. Passengers embarking in the Netherlands would be required to disembark at Brussels station to clear Schengen exit and UK entry checks until new UK border controls at Dutch stations are in place. At the same time, the four Governments began work on developing the necessary treaty to deliver Juxtaposed Controls in the Netherlands.
- 7.5 To facilitate direct services from the Netherlands to the UK, the Tripartite Agreement between the UK, France and Belgium, which currently provides for juxtaposed controls in respect of trains travelling between Belgium, France and the UK via the

¹ Juxtaposed controls also exist on Eurotunnel services between Cheriton (UK) and Coquelles (FR), and on maritime routes between Dover (UK) and Calais and Dunkirk (FR).

Channel Tunnel, needed to be updated. The Quadripartite Agreement Order will give effect to the new Quadripartite Agreement between the UK, France, Belgium and the Netherlands concerning the exercise of border controls on rail traffic between the aforementioned countries via the Channel Tunnel. A copy of the Quadripartite Agreement has been deposited in the House libraries.

- 7.6 As the internal processes required for all four governments to implement the Quadripartite Agreement will take time to complete, the Quadripartite Agreement will not come into force for some time. Thus, in order to ensure that direct services from the Netherlands to the UK can commence promptly and that juxtaposed controls are in place to facilitate that service, a separate bilateral agreement between the UK and the Netherlands establishing juxtaposed controls in the Netherlands was negotiated. The Bilateral Agreement contains a number of provisions specific to the operation of juxtaposed controls in the Netherlands, which will continue to have legal effect once the Quadripartite Agreement comes into force, but also contains other provisions designed to allow for the temporary exercise of juxtaposed controls in the Netherlands pending the coming into force of the Quadripartite Agreement.
- 7.7 The Netherlands Extension Order will give effect to the new bilateral Agreement between the UK and the Netherlands concerning the initial operation of juxtaposed immigration controls in the Netherlands. A copy of the Bilateral Agreement has been deposited in the House libraries.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 These instruments do not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate the legislation amended by these Agreements.

10. Consultation outcome

- 10.1 The Quadripartite Agreement and the Bilateral Agreement relate to a regime for which there is no statutory requirement for consultation. Given the nature of its contents, no public consultation was undertaken.

11. Guidance

- 11.1 There are no plans to issue specific guidance for these instruments.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the costs and benefits are expected to be negligible. Provision is made in the Netherlands Extension Order for those reasonable costs incurred in the provision of immigration controls in relation to international services departing the Netherlands to be charged to the Operator of those international services. The instrument is not expected to impact any business or consumer behaviour significantly. This is in accordance with the [Regulatory Policy Committee](#) Proportionality Guidance that a low impact Impact

Assessment should be prepared for instruments having an equivalent annual net direct cost to business of between £5 million and £10 million.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is required to be in line with the provisions of the Quadripartite Agreement and the Bilateral Agreement, whereby the Parties may, by mutual agreement, amend or review its provisions where necessary. In such an eventuality this legislation would be accordingly amended or reviewed.

15. Contact

- 15.1 Ben Spittles at the Home Office Telephone: 020 7035 5798 or email: Ben.Spittles@HomeOffice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Nigel Farminer at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kevin Foster MP, Parliamentary Under Secretary at the Home Office can confirm that this Explanatory Memorandum meets the required standard.