
EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements into United Kingdom law the provisions of the Agreement between the Government of 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. Those provisions (“the international articles”) are by article 3(1) given the force of law in the United Kingdom within, and for the authorised purposes (see article 2(1)) outside, the control zone accorded to the Netherlands by the international articles (“the Netherlands control zone”).

Article 3(2) provides that officers from the Netherlands may to the extent specified in the international articles, go about their business (essentially, the operation of Netherlands frontier controls as defined in the international articles) in the United Kingdom. Article 3(3) ensures that those officers can be provided with the necessary facilities.

Article 4(1), by extending relevant enactments to the control zone accorded to the United Kingdom in the Netherlands (“the United Kingdom control zone”), performs the corresponding operation for British officers working there.

Article 4(2) applies the Equality Act 2010 (c.15) to the carrying out of functions of United Kingdom immigration officers in a control zone in the Netherlands.

Article 4(3) and (4) alters the application of the Data Protection Act 2018 (c.12) so that data processed by United Kingdom officers in the Netherlands control zone are, but data processed by officers from the Netherlands in the United Kingdom control zone are not, subject to that Act.

Article 5(1) and (2) extends English criminal jurisdiction to conduct in the United Kingdom control zone which, if taking place in England, would constitute an offence under a frontier control enactment as defined in the Schedule. Article 5(6) creates a presumption as to jurisdiction over offences committed where provision is made under the international articles.

Article 6 provides that the frontier control enactments (defined in article 2(1)) have effect for the purposes of this Order with the modifications set out in Schedule 4 to the Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813).

Article 7 allows the Secretary of State to charge operators reasonable fees in the tunnel system in relation to their functions under or by virtue of this Order.

Article 8 amends article 4 of this Order from IP completion day to take account of changes to data protection provisions arising from the United Kingdom’s exit from the European Union.

The Schedule sets out the international articles and the attached protocol.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.