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STATUTORY INSTRUMENTS

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**2021 No. 1196**

**The Channel Tunnel (International Arrangements and Miscellaneous Provisions) (Amendment) Order 2021**

**Amendment of the Channel Tunnel (Miscellaneous Provisions) Order 1994**

**3.—**(1) Schedule 3 to the Channel Tunnel (Miscellaneous Provisions) Order 1994(1) is amended as follows.

(2) For paragraph 2, substitute—

“For paragraph 1, substitute—

**“Power to assist authorities of a Designated State**

**1.—**(1) Where—

- (a) an officer belonging to a Designated State has in a control zone in the United Kingdom arrested or detained a person as permitted by Article 3(1)(a) or 3(1)(b) of the Part II provisions, and
- (b) such an officer so requests,

a constable or an officer of Revenue and Customs (in this Schedule referred to as a “customs officer”) may make arrangements for the person to be taken into temporary custody.

(2) A person taken into temporary custody under sub-paragraph (1)—

- (a) shall be treated for all purposes as being in lawful custody, and
- (b) may be taken to a police station or such other place as may be appropriate in the circumstances, and shall in that case be treated as being a person in whose case sections 36(7) and (8), 54 to 56 and 58 of the Police and Criminal Evidence Act 1984(2) (in this Schedule referred to as “the 1984 Act”), and in the case of a child or young person sections 34(2) to (9) of the Children and Young Persons Act 1933(3), apply, and

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(1) [S.I. 1994/1405](#); amended by [S.I. 2015/856](#).

(2) Amendments were made by section 32(1) and (2) of the Drug Trafficking Offences Act 1986 (c. 29), sections 147 and 170(1) of, and paragraph 99 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33), paragraph 55 of Schedule 10 to the Criminal Justice and Public Order Act 1994 (c. 33), paragraph 36 of Schedule 7 to the Police Act 1996 (c. 16), paragraph 5(5) and (6) of Schedule 15 to the Terrorism Act 2000 (c. 11), sections 74 and 79 of the Criminal Justice and Police Act 2001 (c. 16), section 90(1) of the Anti-terrorism, Crime and Security Act 2001 (c. 24), paragraph 14(2) and (3) of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29), paragraph 9(2) of Schedule 7 to the Police Reform Act 2002 (c. 30), section 169(2) of the Extradition Act 2003 (c. 41), section 8(2) of, and paragraph 1 of Schedule 37 to, the Criminal Justice Act 2003, section 121(5) (a) of, and paragraphs 43(9) and (10) of Schedule 7 to, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), sections 3(2) to (6) and 5(1) of the Drugs Act 2005 (c. 17), section 46(6) of the Police and Justice Act 2006 (c. 48), section 108(1) of the Coroners and Justice Act 2009 (c. 25), Part 13 of Schedule 8 to the Policing and Crime Act 2009 (c. 26), paragraph 7(2) of Schedule 12 to the Policing and Crime Act 2017 (c. 3) and paragraph 18(3) and (4) of Schedule 4 to the Counter-Terrorism and Border Security Act 2019 (c. 3).

(3) [1933 c. 12](#); relevant amendments were made by section 25(1) of the Children and Young Persons Act 1963 (c. 37), section 57 of the Police and Criminal Evidence Act 1984, paragraph 6(2) and (3) of Schedule 13 to, and Schedule 15 to, the Children Act 1989, paragraph 2(3) of Schedule 4 to, and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), paragraph 1 of Schedule 24 to the Sentencing Act 2020 (c. 17), and [S.I. 2016/413](#).

(c) must be returned, before the end of the period for which the person could in the circumstances be detained in the United Kingdom under Article 3 of Part II of the tripartite articles, to a place where detention under that Article could be resumed.

(3) Where a person falls to be treated as mentioned in sub-paragraph (2)(b), section 56 of the 1984 Act shall be taken to apply as if the person were detained for an indictable offence.””

(3) In paragraph 3—

(a) in the variation made by sub-paragraph (a), for “France or Belgium” substitute “a Designated State”;

(b) after sub-paragraph (b) insert—

“(baa) in sub-paragraph (2)(a), omit the words “and where this sub-paragraph applies, the reference in sub-paragraph (1) to a control zone in France shall be construed as including a reference to a supplementary control zone in France,”;

(bab) omit sub-paragraph (3)(b);”;

(c) omit sub-paragraph (ba);

(d) immediately before sub-paragraph (c) insert—

“(bb) omit sub-paragraph (3B);”;

(e) for the variation made by sub-paragraph (c), substitute—

“(c) for sub-paragraphs (4) to (6) substitute—

“(4) For the purpose of enabling constables to make arrests in a Designated State in the cases described in Article 13 of the tripartite articles, section 24 of the 1984 Act shall extend to all Designated States.

(5) Where—

(a) an arrest has been made for an offence of the kind mentioned in Article 12(4) of the Part I provisions, and

(b) it falls to the competent authorities in a Designated State to determine the exercise of jurisdiction in accordance with Article 15,

the person arrested shall be treated as continuing to be under arrest while in that Designated State until the person is presented to those authorities as required by Article 15(3).

(6) Where—

(a) an arrest falling within sub-paragraph (4) or (5) above has been made, and

(b) the competent authorities in that Designated State determine under Article 15 of the tripartite articles that jurisdiction is to be exercised by the United Kingdom,

the person arrested shall be treated as having continued to be under arrest throughout, even if the person was for some period in the custody of those authorities, and sections 30 and 41 of the 1984 Act(4) shall apply accordingly.””.

(4) In paragraph 4—

(a) before the variation made by sub-paragraph (a), insert—

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(4) Amendments were made by section 29(4)(b) of the Criminal Justice and Public Order Act 1994, paragraph 5(2) of Schedule 15 to the Terrorism Act 2000, section 4(2) to (6) of, and paragraph 8 of Schedule 1 to, the Criminal Justice Act 2003, paragraph 161 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13), and sections 53(3), 56(1), 65(3) and 67(2) of the Policing and Crime Act 2017 .

- “(za) in the heading, for “France” substitute “a Designated State”;;
  - (b) for the variation made by sub-paragraph (a)(i), substitute—
    - “(i) for the words “a control zone in France or in a supplementary control zone in France” substitute “a control zone in a Designated State”;;
  - (c) for sub-paragraph (a)(ii) substitute—
    - “(ii) for the words “held in France” substitute “held in a Designated State”;;
  - (d) omit sub-paragraphs (b) and (d).
- (5) In paragraph 5—
- (a) in the variation made by sub-paragraph (a), for “34(2) to (7), (8) and (9)” substitute “34(2) to (9)”;
  - (b) for “Article 11(1)”, wherever it occurs, substitute “Article 15(1)”;
  - (c) for “Article 11(2)”, wherever it occurs, substitute “Article 15(2)”.
- (6) In paragraph 6—
- (a) before the variation made by paragraph (a)(i), insert—
    - “(za) in the heading before paragraph 5, for “French officers” substitute “officers belonging to a Designated State”;;
  - (b) for the variation made by paragraph (a)(i), substitute—
    - “(i) for “the French Republic”, substitute “a Designated State”;;
  - (c) for the variation made by paragraph (a)(ii), substitute—
    - “(ii) for the words “the tunnel system or a control zone or supplementary control zone” substitute “a control zone”;;
- (7) In paragraph 7, for the variation at paragraph (a), substitute—
- “(a) in sub-paragraph (1), for the words “France in the tunnel system or a control zone or supplementary control zone”, substitute “a control zone in a Designated State”;;