

2021 No. 1196

CHANNEL TUNNEL

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

Made - - - - - *26th October 2021*

Laid before Parliament *28th October 2021*

Coming into force in accordance with article 1(2) to (4)

The Secretary of State makes the following Order in exercise of the powers conferred by section 11 of the Channel Tunnel Act 1987(a).

Citation, commencement and extent

1.—(1) This Order may be cited as the Channel Tunnel (International Arrangements and Miscellaneous Provisions) (Amendment) Order 2021.

(2) This article and article 2 come into force on 1st December 2021.

(3) Articles 3(1), 3(3)(b) to (d), 3(4)(d) and 3(6)(c) come into force immediately after article 2 comes into force.

(4) The remainder of this Order comes into force on the date on which 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, 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(b) enters into force(c).

(5) This Order extends to England and Wales, Scotland and Northern Ireland.

Amendment of the Channel Tunnel (International Arrangements) Order 1993

2.—(1) Schedule 3 to the Channel Tunnel (International Arrangements) Order 1993(d) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (2)(b), for “34(2) to (7), (8) and (9)” substitute “34(2) to (9)”;

(b) in sub-paragraph (3), for “a serious arrestable offence” substitute “an indictable offence”.

(a) 1987 c. 53. There is an amendment to section 11 but that is not relevant to this Order. See section 13(1) for the definition of “the appropriate Minister” for making Orders under section 11.
(b) Cmd. 283.
(c) That date will be notified in the London, Edinburgh and Belfast Gazettes.
(d) S.I. 1993/1813; relevant amendments were made by S.I. 1994/1405, 2001/178, 2001/1544, 2005/3389, 2012/1264 and 2015/856.

- (3) In paragraph 2—
- (a) in sub-paragraph (1)(a), after the words “conferred by”, in the second place they appear, insert “section 24 of”;
 - (b) in sub-paragraph (2)(c), for “section 38(1) of the Drug Trafficking Offences Act 1986” substitute “paragraphs 1 and 10 of Schedule 2 to the Proceeds of Crime Act 2002(a)”;
 - (c) in sub-paragraph (4), for “sections 24 and 25” substitute “section 24”.
- (4) In paragraph 3—
- (a) in sub-paragraph (2)—
 - (i) for “Subject to sub-paragraphs (3) and (4), the” substitute “The”;
 - (ii) for “63” substitute “64A”;
 - (iii) omit “, or where the arrest was made by a customs officer, a customs office,”;
 - (iv) for “or customs office designated under section 35 of the 1984 Act(b)” substitute “designated under section 35 of the 1984 Act, and section 34(1) to (5E) of the 1984 Act(c) shall also apply in such a case.”;
 - (b) after sub-paragraph (2), insert—

“(2A)Subject to sub-paragraph (3), the person arrested, where the arrest was made by a customs officer, shall be treated as if the place where the person is held were for the purposes of the provisions mentioned in paragraph 1(2)(b) above and those of sections 61 to 63 and 63D of the 1984 Act(d) a customs office in England, not being a customs office designated under section 35 of the 1984 Act.”.
 - (c) in sub-paragraph (3)—
 - (i) after “54,”, insert “54A,”;
 - (ii) for “64(1) to (6)” substitute “63D”;
 - (iii) for “34(2) to (7), (8) and (9)”, substitute “34(2) to (9)”.
- (5) In paragraph 4(6)(c), for “41(1)”, substitute “41(2)”.
- (6) In paragraph 5(9)(c), for “41(1)”, substitute “41(2)”.
- (7) In paragraph 6(9)(c), for “41(1)”, substitute “41(2)”.

(a) 2002 c. 29.

(b) Section 35 of the Police and Criminal Evidence Act 1984 (c. 60) was amended by paragraph 12 of Schedule 7 to the Anti-terrorism, Crime and Security Act 2001 (c. 24) and by paragraph 6 of Schedule 1 to the Criminal Justice Act 2003 (c. 44).

(c) Amendments were made by sections 54(2) and (3) and 66(2) of the Policing and Crime Act 2017 (c. 3).

(d) Amendments were made by paragraph 27(4) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54), section 54(2) to (4) of, and paragraph 24 of Schedule 9, paragraphs 56 and 58 of Schedule 10 and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33), section 64 of the Criminal Procedure and Investigations Act 1996 (c. 25), section 3 of the Criminal Evidence (Amendment) Act 1997 (c. 17), paragraph 97 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 5(7) to (9) of Schedule 15 to the Terrorism Act 2000 (c. 11), section 57(2) and (3)(a) of, and paragraph 78 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), sections 78(3) and (4), 80(1) and (3) and 81(1) and (2) of the Criminal Justice and Police Act 2001 (c. 16), sections 53(2) and 54(1) of, and paragraph 9(4) and (5) of Schedule 7 to, the Police Reform Act 2002 (c. 30), sections 169(3) and (4) of the Extradition Act 2003 (c. 41), sections 5(3)(b) to (d), 9(2) to (4) and 10(2) and (3) of, and paragraph 56(2)(b) of Schedule 3 and Parts 1 and 4 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), Part 4 of Schedule 5 to the Children Act 2004 (c. 31), sections 59, 117(2), (5)(a) and (5)(b), 118(2), (3)(a) and (b)(i) to (iv) and 178 of, and paragraph 64 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c. 15), sections 7(2) to (11) of, and paragraph 4 of Schedule 1 to, the Drugs Act 2005 (c. 17), paragraph 11 of Schedule 14 to the Police and Justice Act 2006 (c. 48), paragraph 100 of Schedule 16 and Schedule 17 to the Armed Forces Act 2006 (c. 52), Part 13 of Schedule 8 to the Policing and Crime Act 2009 (c. 26), sections 2(1) to (8)(b), 3(1) to (4), 4(1) to (5), 4(7) and (8), 5(1), 6(1) and 14 of the Crime and Security Act 2010 (c. 17), sections 1 to 17, 23 and 24 of, and paragraph 3(2) of Schedule 9 and Part 1 of Schedule 10 to, the Protection of Freedoms Act 2012 (c. 9), paragraph 186 of Schedule 8 to the Crime and Courts Act 2013 (c. 22), paragraphs 7(2) and (3), 8(2) and (3), 9, 10 and 13 of Schedule 24 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), paragraph 4 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), sections 59(2), 70(2) to (11) and 73(3) of, and paragraph 7(3) of Schedule 12 to, the Policing and Crime Act 2017 (c. 3), paragraph 18(5) to (8) of Schedule 4 to the Counter-Terrorism and Border Security Act 2019 (c. 3) and S.I. 2013/602.

Amendment of the Channel Tunnel (Miscellaneous Provisions) Order 1994

3.—(1) Schedule 3 to the Channel Tunnel (Miscellaneous Provisions) Order 1994(a) 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(b) (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(c), apply, and
(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—

(a) S.I. 1994/1405; amended by S.I. 2015/856.

(b) 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).

(c) 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.

“(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(a) shall apply accordingly.”.

(4) In paragraph 4—

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

“(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)”.

(a) 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 .

- (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”;;”

26th October 2021

Damian Hinds
Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 amends the Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813) to update and omit some legislative references.

Article 3 amends the Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405) to allow for the exercise of officers powers in the Netherlands and to update and omit some legislative references.

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.

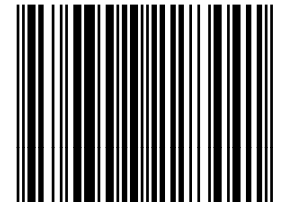
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