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STATUTORY INSTRUMENTS

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**2020 No. 916**

**The Channel Tunnel (Arrangements with the  
Kingdom of the Netherlands) Order 2020**

**Citation and commencement**

1.—(1) This Order may be cited as the Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020.

(2) This Order comes into force—

- (a) for the purposes of article 8, on IP completion day;
- (b) for all other purposes, on 30th September 2020.

(3) Article 6 comes into force immediately after the entry into force of article 5 of the Channel Tunnel (International Arrangements and Miscellaneous Provisions) (Amendment) Order 2020(1).

**Interpretation**

2.—(1) In this Order—

“the 1987 Act” means the Channel Tunnel Act 1987;

“the Agreement” means 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(2);

“the authorised purposes” means—

- (a) purposes for which provision is authorised by any of paragraphs (a), (d) and (g); and
- (b) purposes connected with any matter in relation to, with respect to or for regulating which provision is authorised by any of paragraphs (c), (e), (f) and (h),

of section 11(1) of the 1987 Act;

“frontier control enactment” means an Act, or an instrument made under an Act, for the time being in force, which contains provision relating to frontier controls;

“the international articles” means the provisions set out in the Schedule being—

- (a) the Articles or parts of Articles of the Agreement; and
- (b) the Articles to the Protocol to the Agreement;

“international service” has the meaning given in section 13(6) of the 1987 Act;

“terminal control point” means a place which is an authorised terminal control point for international services for the purposes of sections 11 and 12 of the 1987 Act;

(2) In the international articles, “the Fixed Link” shall for the purposes of this Order be taken to have the same meaning as is given to “the tunnel system” by section 1(7) of the Channel Tunnel Act 1987.

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(1) S.I. 2020/915.

(2) Cmd. 254.

(3) Terms defined for the purposes of the international articles have the same meaning for the purposes of this Order.

### **Application of international articles**

3.—(1) The international articles have the force of law in the United Kingdom—

- (a) within a control zone; and
- (b) elsewhere for the authorised purposes only.

(2) Subject to paragraph (4), without prejudice to paragraph (1), officers belonging to the Kingdom of the Netherlands have, to the extent specified in the international articles, rights and obligations and powers to carry out functions in the United Kingdom.

(3) For the purpose of giving full effect to Articles 17 and 20 of the Protocol to the Agreement (accommodation, etc., for authorities of the other contracting party), the appropriate Minister may by written notice, require any occupier or person concerned with the management of a terminal control point to provide, free of charge, such accommodation, installations and equipment as may be necessary to satisfy requirements determined under Article 16 of the Protocol to the Agreement.

(4) Nothing in this article implies the existence of a control zone in the station of London-Waterloo on British Territory.

### **Application of enactments**

4.—(1) For the purpose of enabling officers belonging to the United Kingdom to carry out frontier controls, all frontier control enactments extend to the Netherlands within a control zone.

(2) The Equality Act 2010<sup>(3)</sup> applies to the carrying out by immigration officers of their functions in a control zone in the Netherlands as it applies to the carrying out of their functions within the United Kingdom.

(3) For the purposes of section 207 of the Data Protection Act 2018<sup>(4)</sup> (“the 2018 Act”), data which is processed within a control zone in the Netherlands in connection with the carrying out of frontier controls by an officer belonging to the United Kingdom shall be treated as processed by a controller established in the United Kingdom in the context of the activities of that establishment (and the 2018 Act accordingly applies in respect of such data).

(4) For the purposes of section 207 of the 2018 Act, data which is processed within a control zone in the United Kingdom in connection with the carrying out of frontier controls by an officer belonging to the Kingdom of the Netherlands shall be treated as processed by a controller established in the Kingdom of the Netherlands in the context of the activities of that establishment (and accordingly the 2018 Act does not apply in respect of such data).

### **Application of criminal law**

5.—(1) Any act or omission which—

- (a) takes place outside the United Kingdom in a control zone; and
- (b) would, if taking place in England, constitute an offence under a frontier control enactment,

shall be treated for the purposes of that enactment as taking place in England.

(2) Any act or omission which—

- (a) takes place inside the United Kingdom in a control zone and relates to an officer belonging to the Kingdom of the Netherlands; and

<sup>(3)</sup> 2010 c.15.

<sup>(4)</sup> 2018 c.12.

(b) would constitute an offence under a frontier control enactment if it took place in relation to an officer belonging to the United Kingdom,  
shall be treated for the purposes of that enactment as if it were an act or omission which had taken place in relation to an officer belonging to the United Kingdom.

(3) Section 22 of the UK Borders Act 2007<sup>(5)</sup> is modified for the purposes of paragraph (2) so that the reference in subsection (1) of that section to an immigration officer includes a reference to an officer belonging to the Kingdom of the Netherlands.

(4) Summary proceedings for anything that is by virtue of paragraph (1) or (2) an offence triable summarily or triable either way may be taken, and the offence may for all incidental purposes be treated as having been committed, in the county of Kent or in the area comprising the inner London boroughs.

(5) Any jurisdiction conferred by virtue of paragraphs (1) and (2) on any court is without prejudice to any jurisdiction exercisable apart from this article by that court or any other court.

(6) Where it is proposed to institute proceedings in respect of an alleged offence in any court and a question as to the court's jurisdiction arises under the international articles, it shall be presumed, unless the contrary is proved, that the court has jurisdiction under the international articles.

#### **Enactments modified**

6.—(1) Without prejudice to the generality of articles 4(1) and 5(1), the frontier control enactments modified by Schedule 4 to the Channel Tunnel (International Arrangements) Order 1993<sup>(6)</sup>—

- (a) in their application to the Kingdom of the Netherlands by virtue of article 4(1); and
- (b) in their application to the United Kingdom for the authorised purposes,

have effect, subject to paragraph (2), with the modifications set out in that Schedule to that Order.

(2) For the purposes of paragraph (1), the modifications referred to in paragraph (1) have effect as if the references—

- (a) as if the reference to the competent French authorities was a reference to the competent Dutch authorities;
- (b) as if the references to an officer belonging to the French Republic or an officer belonging to the Kingdom of Belgium are was a reference to an officer belonging to the Kingdom of the Netherlands.

(3) Nothing in paragraph (1)(b) implies the existence of a supplementary control zone in the station of London-Waterloo on British Territory.

#### **Fees**

7. The Secretary of State may charge an operator a reasonable fee in connection with the carrying out of the Secretary of State's functions under or by virtue of this Order.

#### **Amendments to article 4 coming into force on IP completion day**

8. In article 4—

- (a) in paragraph (3)—
  - (i) after “For the purposes of” insert “Article 3 of the UK GDPR and”;

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<sup>(5)</sup> 2007 c.30.

<sup>(6)</sup> S.I. 1993/1813.

- (ii) for “the 2018 Act accordingly applies” substitute “the GDPR and the 2018 Act apply”;
- (b) in paragraph (4)—
  - (i) after “For the purposes of” insert “Article 3 of the UK GDPR and”;
  - (ii) for “the 2018 Act does” substitute “the GDPR and the 2018 Act do”;
- (c) at the end insert—
  - “(5) In this article, “the UK GDPR” has the meaning given in section 3(10) of the 2018 Act.”.

27th August 2020

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