

Chapter 6

Rail/Channel Tunnel

6.1 Channel Tunnel Security

The Channel Tunnel (Security) Order 1994 (SI 1994/570) lays down regulations to protect the Channel Tunnel system, Channel Tunnel trains, and the passengers and freight carried. It includes offences relating to hijacking, seizing control, destroying, and threats.

6.1.1 Hijacking and seizing control of Channel Tunnel trains

Article 4 of the Channel Tunnel (Security) Order 1994 provides an offence of hijacking and seizing control of Channel Tunnel trains.

Offence

- (1) A person who **unlawfully**, by the use of force or by threats of any kind, seizes a **Channel Tunnel train** or exercises control of it, commits the offence of hijacking a Channel Tunnel train.

Channel Tunnel (Security) Order 1994, article 4

Points to prove

- ✓ date and location
- ✓ unlawfully use force or threats
- ✓ to exercise control over OR
- ✓ to hijack and seize
- ✓ a Channel Tunnel train

6 Rail/Channel Tunnel

Meanings

Unlawfully

In relation to the commission of an act, means that the commission of the act is (apart from this Order) an offence under the law of England and Wales, Scotland, or Northern Ireland or would be if committed there. (art 2)

Channel Tunnel train

A train or any part of a train (including a shuttle train) which has been assigned for use (whether in the United Kingdom or elsewhere) for conveying passengers or goods through the tunnel system. (art 2)

Powers

Police officer

- Powers under PACE 1984
- If suspected terrorist, powers under TACT 2000 (see 8.4)

Powers in relation to the Channel Tunnel for police, revenue and customs and immigration officers (see 6.2)

 **AG consent required:** Channel Tunnel (Security) Order 1994, Article 9.

 **Time limit for prosecutions:** None.

 **Indictment:** Maximum life imprisonment.

PNLD reference numbers: D1652, H1100, H1101.

6.1.2 Seizing control of the tunnel system

Article 5 of the Channel Tunnel Security Order 1994 provides the offence of seizing control of the tunnel system.

Offence

- (1) A person who **unlawfully**, by the use of force or by threats of any kind, seizes the **tunnel system** or exercises control of it, commits an offence.

Channel Tunnel (Security) Order 1994, article 5

Channel Tunnel Security 6.1

Points to prove

- ✓ date and location
- ✓ unlawfully by force or threats
- ✓ exercised control of OR
- ✓ seized the
- ✓ Channel Tunnel system

Meanings**Unlawfully** (see 6.1.1)**Tunnel System**

References to the tunnel system include references to the tunnel system or any part of it (whether in England or France), except the inland clearance depot at Ashford in Kent, for the accommodation, in connection with the application to them of customs and other controls, of freight vehicles which have been or are to be conveyed through the tunnels on shuttle services.

Powers (see 6.1.1)

AG consent required: Channel Tunnel Security Order 1994, Article 9.



Time limit for prosecutions: None.



Indictment: Life imprisonment.

PNLD reference numbers: D1652 , H1102, H1104.

6.1.3 **Destroy, damage or endanger the Channel Tunnel**

Article 6 of the Channel Tunnel (Security) Order 1994 provides the offences of unlawfully destroying, damaging, or endangering a tunnel train or system or any goods on the train or within the tunnel system.

Offence

(1) (a) It is an offence for a person to **unlawfully** and intentionally:

- (i) destroy a **Channel Tunnel train**
- (ii) destroy the **tunnel system**, or
- (iii) destroy any **goods** on the train or within the tunnel

so as to endanger or be likely to endanger, the safe operation of the train, or as the case may be, the safety of the tunnel system.

6 Rail/Channel Tunnel

(b) It is an offence for a person to unlawfully and intentionally:

- (i) damage a Channel Tunnel train
- (ii) damage the tunnel system, or
- (iii) damage any goods on the train or within the tunnel

so as to endanger or be likely to endanger, the safe operation of the train, or as the case may be, the safety of the tunnel system.

(c) It is an offence for a person to unlawfully and intentionally:

- (i) commit an **act of violence** on board a tunnel train
- (ii) commit an act of violence within the tunnel system

which is likely to endanger the safe operation of the train, or as the case may be, the safety of the tunnel system.

(2) It is an offence for a person to unlawfully and intentionally:

- (a) place, or cause to be placed on a Channel Tunnel train any device or substance which is likely to destroy the train, or damage it or any goods on it as to endanger its safe operation,
- (b) place, or cause to be placed in the tunnel system any device or substance which is likely to destroy or damage it or endanger its safety.

Channel Tunnel (Security) Order 1994, article 6 (1) and (2)

Points to prove

(1)(a) and (b)

- ✓ date and location
- ✓ unlawfully and intentionally
- ✓ destroyed/damaged
- ✓ Channel Tunnel train OR
- ✓ tunnel system OR
- ✓ goods on train, within tunnel
- ✓ so as to endanger or be likely to endanger the safe operation of the train/the safety of the tunnel system

(1)(c)

- ✓ date and location
- ✓ unlawfully and intentionally
- ✓ commit an act of violence
- ✓ on board a tunnel train OR
- ✓ within the tunnel system

(2)(a)

- ✓ date and location
- ✓ unlawfully and intentionally
- ✓ place or caused to be placed
- ✓ on a Channel Tunnel train
- ✓ any device or substance

Channel Tunnel Security 6.1

- ✓ likely to destroy the train OR
- ✓ damage it or any goods on it
- ✓ so as to endanger its safe operation

(2)(b)

- ✓ date and location
- ✓ unlawfully and intentionally
- ✓ place or caused to be placed
- ✓ in the tunnel system
- ✓ any device or substance
- ✓ likely to destroy/damage/endanger its safety

Meanings**Unlawfully** (see 6.1.1)**Channel Tunnel train** (see 6.1.1)**Tunnel System** (see 6.1.2)**Goods**

Goods or burden of any description and includes baggage, stores and mail. (art 2)


Act of violence

Means an act which constitutes an offence of murder, attempted murder, manslaughter, or assault and includes section 18 (wounding with intent/grievous bodily harm), section 20 (unlawful wounding/grievous bodily harm), section 21 (attempting to choke), section 22 (using chloroform), section 23 (maliciously administering poison with intent to endanger life), section 24 (maliciously administering poison with intent to injure), section 28 (causing bodily injury by gunpowder) and section 29 (causing gunpowder to explode etc with intent to do grievous bodily harm) of the Offences against the Person Act 1861, and section 2 (causing explosion likely to endanger life or property) of the Explosive Substances Act 1883. (art 6(5))

Powers (see 6.1.1)

 **AG consent required:** Channel Tunnel (Security) Order 1994, Article 9.

 **Time limit for prosecutions:** None.

 **Indictment:** Maximum life imprisonment.

PNLD reference numbers: D1653, D1654, H1103, H1105, H1106, H1107, H1108, H1109, H1370, H1371, H1372, H1374, H1375, H1377.

6 Rail/Channel Tunnel

6.1.4 Damage or interference with Channel Tunnel property

Article 7 of the Channel Tunnel (Security) Order 1994 creates the offences of unlawfully and intentionally destroying, damaging, and interfering with property and communicating false information which endangers the safe operation of the train or tunnel system.

Offence

- (1) It is an offence for any person **unlawfully** and intentionally
 - (a) to destroy or damage any property to which this paragraph applies
 - (b) to interfere with the operation of any such property, where the destruction, damage or interference is likely to endanger the safe operation of any **Channel Tunnel train** or the safety of the **tunnel system**.
- (3) It is an offence for any person intentionally to communicate any information which he knows to be false in a material particular, where the communication of the information endangers the safe operation of any Channel Tunnel train or safety of the tunnel system.

Channel Tunnel (Security) Order 1994, article 7(1) and (3)

Points to prove

(1)(a) and (b)

- ✓ date and location
- ✓ unlawfully and intentionally
- ✓ destroy/damage/interfere with property to which this paragraph applies
- ✓ likely to endanger the safe operation of any Channel Tunnel train or the safety of the tunnel system

(3)

- ✓ date and location
- ✓ intentionally
- ✓ communicated information
- ✓ knew to be false
- ✓ which endangered the safe operation of any Channel Tunnel train or safety of the tunnel system

Meanings

Unlawfully (see 6.1.1)

Channel Tunnel train (see 6.1.1)

Channel Tunnel Security 6.1

Tunnel System (see 6.1.2)

Powers (see 6.1.1)


Defence

It is a defence for a person charged with an offence under paragraph (3) above to prove that when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in performance of those duties.

Channel Tunnel (Security) Order 1994, article 7(4)

Notes

a) Paragraph (1) above applies to any property used in connection with the operation of any Channel Tunnel train or the tunnel system, including any land, building or works, train, apparatus or equipment so used, whether it is on board a Channel Tunnel train or, as the case may be, within the tunnel system, or elsewhere.

 **AG consent required:** Channel Tunnel (Security) Order 1994, Article 7.

 **Time limit for prosecutions:** None.

 **Indictment:** Life imprisonment.

PNLD reference number: D1655

6.1.5 Making threats to endanger the safe operation of the Channel Tunnel

Article 8 of the Channel Tunnel (Security) Order 1994 creates the offence of making threats in order to endanger the safe operation of any Channel Tunnel train or the tunnel system:

Offence

- (1) A person commits an offence if—
 - (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any Channel Tunnel train or the tunnel system an act which is an offence by virtue of article 6(1) (see 6.1.3) of this Order, and

6 Rail/Channel Tunnel

- (b) the making of that threat is likely to endanger the safe operation of the train or, as the case may be, the safety of the tunnel system.
- (2) A person commits an offence if—
 - (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of article 7(1) (see 6.1.4) of this Order, and
 - (b) the making of the threat is likely to endanger the safe operation of any Channel Tunnel train or the safety of the tunnel system.

Channel Tunnel (Security) Order 1994, article 8

Points to prove

- ✓ date and location
- ✓ threatened that he or another would commit an offence under article 6(1) or article 7(1)
- ✓ to compel any other person to do or abstain from doing an act
- ✓ the making of the threat was likely to endanger the safe operation of any Channel Tunnel train or the safety of the tunnel system

Meanings

Channel Tunnel train (see 6.1.1)

Tunnel System (see 6.1.2)

Powers (see 6.1.1)

 **AG consent required:** Channel Tunnel (Security) Order 1994, Article 9.

 **Time limit for prosecutions:** None.

 **Indictment:** Life imprisonment.

PNL reference numbers: D1656, H1115, H1116.

6.1.6 Acts of violence against Channel Tunnel trains and system

Article 10 of the Channel Tunnel (Security) Order 1994 provides details of where and against whom acts of violence can be committed in relation to **Channel Tunnel Trains** and the **tunnel system** for the purposes of Part III of this Order.

Acts of violence may be committed against:

Channel Tunnel Security 6.1

- (a) channel tunnel trains, and persons or property on board such trains,
- (b) the tunnel system, such persons as are at any time present in any part of the tunnel system and of such property as forms part of the tunnel system or is at any time (whether permanently or temporarily) in any part of the tunnel system,
- (c) any property used in connection with the operation of any Channel Tunnel train or the tunnel system including any land, building or works, train or other vehicle, apparatus or equipment so used whether it is on board a Channel Tunnel train or elsewhere, and
- (d) any **goods** to be carried on a Channel Tunnel train or any property used in connection with such goods, including any land, building or works, train or other vehicle, apparatus or equipment so used, whether it is on board a Channel Tunnel train or elsewhere.

Meanings**Acts of violence**

(see 6.1.3), but also including culpable homicide and section 1 of the Criminal Damage Act 1971. (art 10)

Channel Tunnel train (see 6.1.1)

Tunnel System (see 6.1.2)

Property

Includes any land, building or works, any train or other vehicle, and any goods or other article of any description. (art 2)

Goods (see 6.1.3)

PNLD reference numbers: D1658

6.1.7 Secretary of State's powers to require information

Article 11 of the Channel Tunnel (Security) Order 1994 empowers the Secretary of State to require information from the following persons by giving written notice and provides the offence of failing to comply with such notice:

- (a) the **owner**, operator or **train manager** of any **Channel Tunnel train**,
- (b) the Concessionaires (the private company who run the system),
- (c) any person who carries on operations in the **tunnel system**,

6 Rail/Channel Tunnel

- (d) any person permitted to have access to a **restricted zone** for the purposes of the activities of any business carried on by him, and
- (e) the owner, occupier or manager of any **property** used in connection with the operation of any Channel Tunnel train or the tunnel system including any land, building or works, train or other vehicle, apparatus or equipment so used whether it is on board a Channel Tunnel train or, as the case may be, within the tunnel system or elsewhere.

Offence

- (6) [It is an offence for] any person who—
 - (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this article, or
 - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

Channel Tunnel (Security) Order, 1974, article 11(6)

Points to prove

- ✓ without reasonable excuse
- ✓ fails to comply
- ✓ makes a statement knowing it to be false
- ✓ recklessly makes a statement which is false

Meanings

Owner

Includes a lessee.

Train manager

Means in relation to a Channel Tunnel train, the person designated as train manager by the person operating the service on which the train is engaged, or, in the absence of such designation, the driver of the train. (art 2)

Channel Tunnel train (see 6.1.1)

Tunnel System (see 6.1.2)

Restricted zone

In relation to the tunnel system or any land, building, or works, means any part of the tunnel system or the land, building, or works designated under article 12 of this order where the whole of the

Channel Tunnel Police Powers 6.2

tunnel system or land, building, or works is so designated, the tunnel system or the land, building, or works. (art 2)

Property (see 6.1.6)

Powers (see 6.1.1)



Time limit for prosecutions: None.



Summary: A fine not exceeding the statutory maximum.



Indictment: Maximum imprisonment two years and/or a fine.

PNLD reference numbers: D1659, H1117, H1118.

6.2 Channel Tunnel Police Powers

Schedule 3 to the Channel Tunnel (International Arrangements) Order 1993 provides powers to police officers to assist French authorities, to arrest outside of the United Kingdom and guidance to manage arrested persons held in the United Kingdom and arrested persons held in France.

6.2.1 Power to assist French authorities

Paragraph 1 of Schedule 3 to the Channel Tunnel (International Arrangements) Order 1993 provides powers to assist French authorities.

Powers

(1) Where—

- (a) an **officer** belonging to the French Republic has in a control zone in the United Kingdom or in a supplementary **control zone** in the United Kingdom arrested or detained a person as permitted by Article 10(1) of the **international articles** and Article 2 of the **supplementary articles**, and

- (b) such an officer so requests,

a constable or an officer commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (in this Schedule referred to as a ‘customs officer’) may make arrangements for the person to be taken into temporary custody.

6 Rail/Channel Tunnel

- (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 (in this Schedule referred to as 'the 1984 Act'), and in the case of a child or young person section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933, apply, and
 - (c) must be returned, before the end of the period for which he could in the circumstances be detained in the United Kingdom under Article 10 of the international articles or Article 2 of the supplementary articles, to a place where detention under that Article could be resumed.

*Channel Tunnel (International Arrangements)
Order 1993, paragraphs 1(1) and 1(2) of Schedule 3*

Meanings

Officer

Persons responsible for policing and frontier controls who are under the command of the persons or authorities designated in accordance with Article 2(1). (art 1 of Schedule 2)

Control zone

The part of the territory of the host State determined by mutual agreement between the two Governments within which the officers of the adjoining State are empowered to effect controls. (art 2(1) and Schedule 1)

International articles

Means the provisions set out in Schedule 2 (not reproduced in full here). (art 2(3))

Supplementary articles

Means the provisions set out in Schedule 2A (not reproduced in full here). (art 2(4))

Notes

- a) Article 2 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 provides authorities and general principles of cooperation stating that each of the Governments shall designate the authorities or the persons having charge of the services which in its territory have responsibility for the exercise of frontier controls, the maintenance of law and order and fire fighting and rescue within the Fixed Link.

Channel Tunnel Police Powers 6.2

- b) Article 10 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 provides the following guidance:
 - i) The officers of the adjoining State shall, in exercise of their national powers, be permitted in the control zone situated in the host State to detain or arrest persons in accordance with the laws and regulations relating to frontier controls of the adjoining State or persons sought by the authorities of the adjoining State. These officers shall also be permitted to conduct such persons to the territory of the adjoining State.
 - ii) However, except in exceptional circumstances, no person may be held more than 24 hours in the areas reserved, in the host State, for the frontier controls of the adjoining State. Any such detention shall be subject to the requirements and procedures laid down by the legislation of the adjoining State.
 - iii) In exceptional circumstances the 24-hour period of detention may be extended for a further period of 24 hours in accordance with the legislation of the adjoining State. The extension of the period of detention shall be notified to the authorities of the host State.

6.2.2 Powers of arrest outside United Kingdom

Paragraph 2 of Schedule 3 to the Channel Tunnel (International Arrangements) Order 1993 provides powers of arrest outside the United Kingdom.

Power

- (1) A constable may in a control zone in France—
 - (a) exercise any power of arrest conferred by a frontier control enactment or conferred by the 1984 Act in respect of an offence under such an enactment,
 - (b) make any arrest authorised by a warrant issued by a court in the United Kingdom, and
 - (c) arrest any person whose name or description or both, together with particulars of an indictable offence of which there are reasonable grounds for suspecting him to be guilty, have been made available by a chief officer of police to other such officers.
- (2) For the purposes of sub-paragraph (1)(a) the reference in sub-paragraph (1) to a constable shall be construed—

6 Rail/Channel Tunnel

- (a) in relation to the powers of arrest conferred by section 28A(1) and (3) of and paragraph 17(1) of Schedule 2 to the Immigration Act 1971, as including a reference both—
 - (i) to an immigration officer appointed for the purposes of that Act under paragraph 1 of that Schedule, and
 - (ii) to an officer of customs and excise who is the subject of arrangements for the employment of such officers as immigration officers made under that paragraph by the Secretary of State,

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, and

- (b) in relation to any arrest that may be made by a customs officer by virtue of section 138 of the Customs and Excise Management Act 1979 and an arrest for a drug trafficking offence as defined in section 38(1) of the Drug Trafficking Offences Act 1986, as including a reference to a customs officer.
- (3) A customs officer may
- (a) in a control zone in France arrest any person whose name or description or both, together with particulars of an arrestable offence (within the meaning of section 24 of the 1984 Act) which is an offence in relation to an assigned matter as defined in section 1(1) of the Customs and Excise Management Act 1979 and of which there are reasonable grounds for suspecting him to be guilty, have been made available to customs officers generally under the authority of the Commissioners of Customs and Excise;
 - (b) within the tunnel system exercise any power of arrest conferred by security control enactment in connection with the carrying out of security controls.
- (4) For the purpose of enabling constables to make arrests in France in the cases described in Article 40 of the international articles sections 24 and 25 of the 1984 Act shall extend to France.
- (5) Where—
- (a) an arrest has been made for an offence of the kind mentioned in Article 39 of the international articles, and
 - (b) it falls to the competent authorities in France to determine the exercise of jurisdiction in accordance with Article 38,
- the person arrested shall be treated as continuing to be under arrest while in France until he is presented to those authorities as required by Article 41(a).
- (6) Where—
- (a) an arrest falling within sub-paragraph (4) or (5) above has been made, and

Channel Tunnel Police Powers 6.2

- (b) the competent authorities in France determine under Article 41 of the international 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 he was for some period in the custody of those authorities, and sections 30 and 41 of the 1984 Act shall apply accordingly.

- (7) Any power conferred by an enactment to search an arrested person may be exercised following an arrest authorised by this paragraph as if the person had been arrested in the United Kingdom.

*Channel Tunnel (International Arrangements)
Order 1993, paragraph 2 of Schedule 3*

Meanings

Control zone (see 6.2.1)

The 1984 Act

Means the Police and Criminal Evidence Act 1984.

Notes

- a) Article 24 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 states: veterinary inspection of living animals shall be without prejudice to any subsequent quarantine, measures which may be imposed by the importing State.
- b) Article 38 of the Channel Tunnel (International Arrangements) Order 1993 provides guidance on States jurisdiction when offences are committed. It states that:
 - (1) Without prejudice to the provisions of Articles 11 and 30(2), when an offence is committed in the territory of one of the two States, including that lying within the Fixed Link up to its frontier, that State shall have jurisdiction.
 - (2) (a) Within the Fixed Link, each State shall have jurisdiction and shall apply its own law:
 - (i) when it cannot be ascertained with certainty where an offence has been committed; or
 - (ii) when an offence committed in the territory of one State is related to an offence committed on the territory of the other State; or
 - (iii) when an offence has begun in or has been continued into its own territory;
 - (b) however, the State which first receives the person suspected of having committed such an offence (in this Article referred

6 Rail/Channel Tunnel

to as 'the receiving State') shall have priority in exercising jurisdiction.

- c) Article 39 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 states that:

Where an arrest has been made for an offence in respect of which a State has jurisdiction under Article 38, that arrest shall not be affected by the fact that it continues in the territory of the other State.

- d) Article 40 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 states that:

the police and customs officers of one State may in accordance with their own national laws make arrests on the territory of the other State in cases where a person is found committing, attempting to commit, or just having committed an offence:

- (a) on board any train which has commenced its journey from one State to the other and is within the Fixed Link; or
- (b) within any tunnel described in Article 1(2) of the Treaty.

- e) Article 41 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 states in the case of arrests covered by Articles 39 and 40:

- (a) the person arrested shall be presented without delay to the competent authorities of the State of arrival for that State to be responsible for determining the exercise of jurisdiction as required by Article 38; and
- (b) where jurisdiction shall be exercised by the other State in accordance with Article 38, the person arrested may be transferred to the territory of that State. However, any such transfer shall take place within 48 hours of the presentation under paragraph (a) of this Article. Moreover, each State reserves the right not to transfer its nationals.

6.2.3 Arrested persons held in France

Paragraph 3 of Schedule 3 to the Channel Tunnel (International Arrangements) Order 1993 provides guidance in relation arrested persons held in France.

Channel Tunnel Police Powers 6.2

Power

(1) Where—

- (a) an arrest of any kind authorised by paragraph 2 above has been made in a control zone in France or in a supplementary control zone in France, or
- (b) an arrest of any such kind has been made in the United Kingdom and the person arrested enters such a control zone while under arrest,

the person arrested may be held in France for a period of not more than 24 hours and, if there are exceptional circumstances and an officer belonging to the French Republic is notified of the extension, for a further such period.

- (2) Subject to sub-paragraphs (3) and (4), the person arrested shall be treated as if the place where he is held were for the purposes of the provisions mentioned in paragraph 1(2)(b) above and those of sections 61 to 63 of the 1984 Act a police station, or where the arrest was made by a customs officer, a customs office, in England, not being a police station or customs office designated under section 35 of the 1984 Act.

(3) Where—

- (a) an arrest falling within paragraph 2(1)(a) or (3)(a) or (b) above has been made by a customs officer, and
- (b) the person arrested is held in France in a place within the tunnel system which would if it were in England be a customs office within the meaning of the 1984 Act,

sections 34(1) to (5), 36, 37, 39 to 42, 50, 54, 55, 56(1) to (9), 58(1) to (11), 62, 63 and 64(1) to (6) of the 1984 Act and in the case of a child or young person section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933, shall apply as if the place where he is held were a customs office in England designated under section 35 of the 1984 Act.

Channel Tunnel (International Arrangements)

Order 1993, paragraph 3 of Schedule 3

Meanings

Control zone (see 6.2.1)

The 1984 Act (see 6.2.2)

6.2.4 Arrested persons arriving in the United Kingdom

Paragraph 4 of Schedule 3 to the Channel Tunnel (International Arrangements) Order 1993 provides guidance in relation to arrested persons arriving in the United Kingdom.

6 Rail/Channel Tunnel

Power

(1) Where—

(a) an arrest falling within Article 39 or 40 of the international articles has been made, and

(b) the person arrested enters the United Kingdom while under arrest, the person arrested shall be taken to a police station.

(2) The custody officer at the police station to which the person is taken shall determine—

(a) whether the offence is one over which the United Kingdom has jurisdiction by virtue of Article 38(1), and

(b) if he determines that it is not, whether it is one over which the United Kingdom may exercise jurisdiction by virtue of Article 38(2) and if so whether jurisdiction is to be exercised,

and may for the purpose of determining those questions detain the person at the police station for not longer than the permitted period.

(3) The permitted period is the period of 48 hours beginning at the time at which the person arrives at the police station.

(4) Subject to sub-paragraph (6), the person shall be treated—

(a) as not being detained at the police station for the purposes of section 37 of the 1984 Act, and

(b) as not being in police detention for the purposes of sections 40 to 43 of the 1984 Act.

(5) Where the custody officer determines that the United Kingdom does not have jurisdiction by virtue of Article 38(1) and—

(a) that jurisdiction is not exercisable by virtue of Article 38(2), or

(b) that jurisdiction is exercisable by virtue of Article 38(2) but is not to be exercised,

he shall immediately inform the competent French authorities of his determination and shall arrange for the person to be transferred to France within the permitted period.

(6) Where the custody officer determines that the United Kingdom has jurisdiction by virtue of Article 38(1) or that jurisdiction is exercisable by virtue of Article 38(2) and is to be exercised—

(a) he shall immediately inform the person of his determination,

(b) the person shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and

(c) that Part shall have effect in relation to him as if the relevant time mentioned in section 41(1) were the time at which he is informed of the determination.

(7) Where the police station to which the person is taken is not a police station designated under section 35 of the 1984 Act, references in this paragraph to the custody officer are to be construed as references to an officer not below the rank of sergeant.

Channel Tunnel (International Arrangements) Order 1993, paragraph 4 of Schedule 3

Channel Tunnel Police Powers 6.2

Meanings

The 1984 Act (see 6.2.2)

Notes

- a) Article 38 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 provides guidance on States jurisdiction when offences are committed. It states that:
- (1) Without prejudice to the provisions of Articles 11 and 30(2), when an offence is committed in the territory of one of the two States, including that lying within the Fixed Link up to its frontier, that State shall have jurisdiction.
 - (2) (a) Within the Fixed Link, each State shall have jurisdiction and shall apply its own law:
 - (i) when it cannot be ascertained with certainty where an offence has been committed; or
 - (ii) when an offence committed in the territory of one State is related to an offence committed on the territory of the other State; or
 - (iii) when an offence has begun in or has been continued into its own territory;
 - (b) however, the State which first receives the person suspected of having committed such an offence (in this Article referred to as 'the receiving State') shall have priority in exercising jurisdiction.
- b) Article 39 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 states that:
- Where an arrest has been made for an offence in respect of which a State has jurisdiction under Article 38, that arrest shall not be affected by the fact that it continues in the territory of the other State.
- c) Article 40 of Schedule 2 to the Channel Tunnel (International Arrangements) Order 1993 states that:
- the police and customs officers of one State may in accordance with their own national laws make arrests on the territory of the other State in cases where a person is found committing, attempting to commit, or just having committed an offence:
- i) on board any train which has commenced its journey from one State to the other and is within the Fixed Link; or
 - ii) within any tunnel described in Article 1(2) of the Treaty.