

**EXPLANATORY MEMORANDUM TO
THE CHANNEL TUNNEL (MISCELLANEOUS PROVISIONS) (AMENDMENT)
ORDER 2006**

2006 No. 2627

AND

**THE CHANNEL TUNNEL (INTERNATIONAL ARRANGEMENTS)
(AMENDMENT) ORDER 2006**

2006 No. 2626

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The purpose of these Orders is to make provision for modification of the provision under section 141 of the Immigration and Asylum Act 1999 for the taking of fingerprints in a UK control zone and supplementary control zones at juxtaposed controls at the Eurostar terminals in France and Belgium and also in the UK control zone at the terminal at Coquelles.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 11 of the Channel Tunnel Act 1987 provides that a Minister may make provision by order as appears to him to be necessary or expedient for the purposes of applying any provision of English law (with or without modifications) or modifying any such provision in relation to things done or omitted or other matters arising anywhere within the tunnel system (whether in England or France) or with respect to controls in relation to persons or goods at authorised terminal control points for trains on international services. The Channel Tunnel (International Arrangements) Order 1993 and the Channel Tunnel (Miscellaneous Provisions) Order 1994 apply all frontier control enactments to the control zones and all immigration control enactments within the supplementary control zones. Article 7 of and Schedule 4 to the 1993 Order, and article 7 of the 1994 Order, provide for the modification of certain enactments as they apply in the control zones and supplementary control zones.
 - 4.2 The Channel Tunnel (International Arrangements) (Amendment) Order 2006 amends Schedule 4 to the 1993 Order to provide for a modification in the application of section 141 of the Immigration and Asylum Act 1999. The

Channel Tunnel (Miscellaneous Provisions) (Amendment) Order 2006 amends the 1994 Order to provide that this modification also has effect in relation to control zones in Belgium. In addition, it amends the 1994 Order to substitute a reference to the Prevention of Terrorism (Temporary Provisions) Act 1989 with a reference to the Terrorism Act 2000. Juxtaposed controls at Coquelles were established in 1994 and immigration powers are provided by the Channel Tunnel (International Arrangements) Order 1993. The powers for juxtaposed controls at the Eurostar stations of Paris, Lille and Calais Frethun are provided by Amendment No. 3 to that '93 Order [2001 No. 1544] and at Brussels by the Channel Tunnel (Miscellaneous Provisions) Order 1994 and its Amendment of 2004 [2004 No. 2589].

- 4.3 These Orders are linked to The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls)(Amendment Order) which, inter alia, provides for the power to take fingerprints at juxtaposed controls at the northern French ports of Calais, Dunkerque and Boulogne.

5. Extent

- 5.1 These instruments apply to all of the United Kingdom.

6. European Convention on Human Rights

As these instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- 7.1 When the immigration controls at the juxtaposed controls in France were initially established, no provision was made for the application of Section 141 of the Immigration and Asylum Act 1999 - fingerprinting. At the time it was felt that it would not be necessary to take fingerprints as all persons refused entry to the United Kingdom at a UK control zone are handed over to the French authorities and their movements within the UK do not need any management. However it has become apparent that we should have the same powers as those deployed at UK mainland ports. There is a real need for the identification of certain persons and in particular to identify those using false documentation or clandestine means to gain entry to the UK. A bank of physical data will be developed that can be used to identify previous offenders who are without paper documentation. Fingerprinting will support an intelligence led approach to border security, providing information regarding its efficiency and the level of displacement between ports. The effect of this Order will be to provide the same powers as those available at UK mainland ports.

8. Impact

- 8.1 An initial regulatory impact assessment indicated that the effect of this policy on external bodies was minimal. However subsequently a full Consultation has been carried out in accordance with Cabinet office guidelines. There has been concern that the taking of fingerprints will breach an individual's rights or be seen to target ethnic minorities. We are simply applying powers that currently

exist at UK mainland ports for application of UK domestic legislation regarding fingerprinting to the juxtaposed locations.

9. Contact

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