

[<sup>F1</sup>Schedule 1]

INTERNATIONAL ARTICLES

**Textual Amendments**

- F1** Sch. renumbered as Sch. 1 (1.12.2021) by [The Channel Tunnel \(Arrangements with the Kingdom of the Netherlands\) \(Amendment\) Order 2021 \(S.I. 2021/1190\)](#), arts. 1(2)(b), **2(5)**

[<sup>F1</sup>PROTOCOL

CONCERNING THE ORGANISATION OF  
BORDER CONTROLS IN THE CONTROL ZONES

**Textual Amendments**

- F1** Sch. 1 Protocol omitted (coming into force in accordance with art. 1(2)(a) of the amending S.I.) by virtue of [The Channel Tunnel \(Arrangements with the Kingdom of the Netherlands\) \(Amendment\) Order 2021 \(S.I. 2021/1190\)](#), arts. 1(2)(a), **2(6)(a)**

**Commencement Information**

- I1** Sch. Protocol in force at 30.9.2020, see [art. 1\(2\)\(b\)](#)

*ARTICLE 1*

This Protocol shall apply to rail traffic between the Contracting Parties in either direction travelling via the Fixed Link.

*ARTICLE 2*

**1.** The laws in force of the Host State shall apply at all times in the Control Zone. Without prejudice to the application of the provisions of article 18, Officers of the Host State have the right to circulate and intervene at any moment within the Control Zone in order to perform their competences attributed by national law.

**2.** When performing border controls in the Host State, the Officers of the Destination State shall apply the laws and regulations relating to border controls in their State and put them into effect in the Control Zone situated in the Host State in the same way as in their own territory, under the procedure and modalities as defined in Article 3.

*ARTICLE 3*

**1.** The Officers of the Destination State shall, in the exercise of their national powers, only be permitted in the Control Zone situated in the Host State to detain or arrest persons for criminal offences during the execution of a Border control on persons in accordance with the laws and regulations relating to frontier controls of their own State or persons sought by the authorities of their own State, as follows:

**Changes to legislation:** There are currently no known outstanding effects for the The Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020, PROTOCOL. (See end of Document for details)

- (a) No arrest or detention may be made for a criminal offence for which there is no comparable criminal offence under the domestic legislation of the Host State.
- (b) While performing the controls envisaged in article 2, the Officers of the Destination State may require a person to submit to further examination in order to ensure that such a person may be authorised to enter the territory of the Destination State. Persons required to submit to further examination may bring this examination to an end at any time by discontinuing their wish to enter the territory of the Destination State. In such a case the person shall be directed to the officers of the Host State who will take the necessary measures to submit the person to frontier controls.
- (c) Any person arrested or detained shall be handed over immediately, along with any seized goods, to the Competent authorities of the Host State. The Host State shall ensure that the Competent authorities are available to receive such a person and to take the necessary measures.

#### ARTICLE 4

Without prejudice to the law of the Host State, breaches of the laws and regulations relating to frontier controls of the Destination State which are detected in the Control Zone situated in the Host State shall be subject to the laws and regulations of the Destination State, as if the breaches had occurred in the territory of the latter.

#### ARTICLE 5

1. The frontier controls of the Host State shall normally be effected before those of the Destination State.
2. The Officers of the Destination State are not authorised to begin to carry out such controls before the end of the controls of the Host State. Any form of relinquishment of such controls shall be considered as a control.
3. The Officers of the Host State may no longer carry out their controls when the officers of the Destination State have begun their own operations, except with the consent of the Competent officers of the Destination State.
4. If exceptionally, in the course of the frontier controls, the sequence of operations provided for in paragraph (1) of this Article is modified, the officers of the Destination State may not proceed to detentions, arrests or seizures until the frontier controls of the Host State are completed. In such a case, these Officers shall escort the persons, vehicles, merchandise, animals or other goods, for which the frontier controls of the Host State are not yet completed, to the officers of that State. If these latter then wish to proceed to detentions, arrests or seizures, they shall have priority.

#### ARTICLE 6

If the Destination State refuses admission to persons, vehicles, animals or goods, or if persons refuse to submit to the frontier controls of the Destination State, or send or take back any vehicles, animals or goods which are accompanying them, the authorities of the Host State may not refuse to take back such persons, vehicles, animals or goods. However, the authorities of the Host State may take any measures to deal with them in accordance with the law applicable in that State and in a way which does not impose obligations on the Destination State.

#### ARTICLE 7

1. The provisions of this Protocol concerning the methods of exercise of juxtaposed frontier controls, particularly any extension or reduction of their field of application, may be modified by mutual agreement between the Governments by way of arrangements which shall be confirmed by Exchange of Diplomatic Notes.

2. In an emergency, the local representatives of the authorities concerned may by mutual agreement provisionally bring into effect alterations to the delimitation of the Control Zones which may prove necessary. Any arrangements so reached shall come into effect immediately.

#### ARTICLE 8

Border controls on persons for the purpose of safeguarding public health shall be carried out in the Control Zone situated in the Host State by the Competent authorities of the Destination State in conformity with the regulations applicable in that State.

#### ARTICLE 9

1. Where there is information giving rise to suspicion of an infringement, controls may be carried out on animals, animal products, plants, plant products and foodstuffs for human or animal consumption.

2. The bringing into the Destination State of pets, which travellers take with them for non-profit purposes may be subject to controls in compliance with the current regulations.

#### ARTICLE 10

1. The controls referred to in Article 9 shall include:

- (a) inspection of certificates or accompanying documents, termed documentary inspection;
- (b) physical examination, including where necessary the taking of samples;
- (c) inspection of means of transport.

2. Such controls may be limited to documentary inspection, while physical examination may be undertaken as considered necessary.

#### ARTICLE 11

Veterinary inspection of living animals shall be without prejudice to any subsequent quarantine measures which may be imposed by the importing State.

#### ARTICLE 12

Officers of the Destination State may wear their national uniform or visible distinctive insignia in the Host State.

#### ARTICLE 13

1. The authorities of the Host State shall grant the same protection and assurance to Officers of the Destination State, in the exercise of their functions, as they grant to their own Officers.

**Changes to legislation:** There are currently no known outstanding effects for the The Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020, PROTOCOL. (See end of Document for details)

2. The provisions of the criminal law in force in the Host State for the protection of officers in the exercise of their functions shall be equally applicable to the punishment of offences committed against officers of the Destination State in the exercise of their functions.

#### ARTICLE 14

1. Without prejudice to the application of the provisions of Article 11 of the Agreement, claims for compensation for loss, injury or damage caused by or to officers of the Destination State in the exercise of their functions in the Host State shall be subject to the law and jurisdiction of the Destination State as if the circumstance giving rise to the claim had occurred in that State.

2. Officers of the Destination State may not be prosecuted by authorities of the Host State for any acts performed in the Control Zone whilst in the exercise of their functions. In such a case, they shall come under the jurisdiction of their own State as if the act had been committed in that State.

3. The judicial authorities or police of the Host State who take steps to record the complaint and assemble the facts relating thereto shall communicate all the particulars and evidence thereof to the Competent authorities of the Destination State for the purposes of a possible prosecution according to the laws in force in that State.

#### ARTICLE 15

1. Officers of the Destination State shall be permitted freely to transfer to their own State sums of money levied on behalf of their Governments in the Control Zone situated in the Host State, as well as merchandise and other goods seized there.

2. They may equally sell such merchandise and other goods in the Host State in conformity with the provisions in force in the Host State and transfer the proceeds to their own State.

#### ARTICLE 17

1. The authorities of each Contracting Party shall use their best endeavours to ensure that the authorities of other Contracting Party are able to make use in the Host State of the accommodation, installations and equipment necessary for the performance of their functions.

2. The Host State has the right to provide for an Operator or third party to make available the accommodation, installations and equipment necessary for the performance of the other Contracting Party's functions, and similarly has the right to recover the costs of such provision from an Operator or other third party. Any such provision or recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.

#### ARTICLE 18

1. The Officers of the Destination State are empowered to keep order within the accommodation appointed for their exclusive use in the Host State.

2. The Officers of the Host State shall not have access to such accommodation, except at the request of the officers of the Destination State or in accordance with the laws of the Host State applicable to entry into and searches of private premises.

#### ARTICLE 19

All goods which are necessary to enable the Officers of the Destination State to carry out their functions in the Host State shall be exempt from all taxes, duties and fees on entry and exit.

## ARTICLE 20

1. The Officers of the Destination State whilst exercising their functions in the Host State shall be authorised to communicate with their national authorities.

2. For this purpose, the authorities of the Host State shall endeavour to meet the requests of the authorities of the Destination State relating to communications facilities necessary for the performance of their functions and shall define their conditions of use.

3. The Host State has the right to provide for an Operator or third party to make available the accommodation, installations and equipment necessary for the performance of the other Contracting Party's functions, and similarly has the right to recover the costs of such provision from an Operator or other third party. Any such provision or recovery shall be by way of administrative agreement between the relevant Contracting Party and Operator or third party.]

## ANNEX A

### CRIMINAL OFFENCES

The criminal offences referenced in Article 5 of the Agreement are as follows:

Offences for which Officers of either Contracting Party may arrest

- using deception to enter the Destination State
- assisting unlawful entry
- helping an asylum seeker enter the Destination State for gain
- assisting entry to the Destination State in breach of a deportation or exclusion order
- obstructing an immigration officer conducting checks

Offences for which Officers of the United Kingdom may use detention at port powers pending the arrival of Officers of the Netherlands

- any offence for which a person is liable to arrest by a police officer for an act or omission which would constitute an offence under an immigration control enactment if it had taken place in the United Kingdom
- any offence in respect of which an individual is subject to a warrant for arrest.

**Changes to legislation:**

There are currently no known outstanding effects for the The Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020, PROTOCOL.