

SCHEDULE 5

AMENDMENTS OF ENACTMENTS AND INSTRUMENTS

PART II

INSTRUMENTS

The Channel Tunnel (Customs and Excise) Order 1990

7. In paragraphs 8 to 10 “the 1990 Order” means the Channel Tunnel (Customs and Excise) Order 1990⁽¹⁾ and in paragraphs 11 to 33 “the Schedule” means the Schedule to that Order.

8. Article 2 of the 1990 Order (interpretation) is amended—

- (a) in paragraph (2) by inserting below the word “port;” the word “proper;” and
- (b) by inserting after paragraph (2)

“(3) In this Order the following expressions have the same meaning as in the Channel Tunnel (International Arrangements) Order 1993

- “Concessionaires”;
- “control zone”;
- “international service”;
- “shuttle train”;
- “terminal control point”;
- “through train”;
- “train manager”.

9. Article 3 of the 1990 Order (Channel tunnel customs approved areas) is amended—

- (a) in paragraph (1)—
 - (i) by inserting after the word “conditions” the words “and restrictions”;
 - (ii) by substituting for the words “within the tunnel system” the words “in the United Kingdom, and in France in a control zone within the tunnel system,” and
 - (iii) by substituting for the words “and any place” the words “, and may also so approve all or any through trains while they are within any area in the United Kingdom specified in the approval or while they constitute a control zone, and any place or train”; and
- (b) by substituting for paragraph (6)—

“(6) Subject to paragraphs (6A) and (6B) below—

 - (a) goods imported through the tunnel shall not be unloaded from the importing vehicle, and
 - (b) goods to be exported through the tunnel shall not be loaded onto the exporting vehicle,

except at a place which is a customs approved area.

(1) S.I. 1990/2167.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6A) Paragraph (6) above does not apply, except in a case falling within paragraph (6B) below, so as to prevent, restrict or delay the movement between different member States of any goods entering or leaving the United Kingdom.

(6B) The cases mentioned in paragraph (6A) above are those where it appears to the Commissioners or the proper officer that there are reasonable grounds for believing that compliance with paragraph (6) above is required for purposes connected with—

- (a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
- (b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods into or out of the member States; or
- (c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.”.

10. Article 5 of the 1990 Order (time of importation, exportation etc.) is amended—

(a) in paragraph (1) by inserting after the words “customs and excise Acts” the words “and of any enactment under or by virtue of which any prohibition or restriction with respect to the importation or exportation of any goods is for the time being in force”; and

(b) by substituting for paragraphs (2) to (4)—

“(2) Goods intended to be brought into the United Kingdom through the tunnel shall be treated as being imported into the United Kingdom—

- (a) when they are taken into a control zone in France within the tunnel system, or
- (b) in the case of goods carried in a through train while it constitutes a control zone in France, when officers become authorised under Article 12 of the international articles to begin to carry out controls.”.

11. The Schedule is amended by inserting immediately below the heading “MODIFICATIONS OF THE ACT OF 1979”

“Part II of the Act of 1979: Administration

A1. In section 17(1) (disposal of duties, etc.) the reference to Great Britain shall be construed as including a reference to a control zone in France.”.

12. The Schedule is amended by inserting immediately below the sub—heading “Part III of the Act of 1979: Customs and Excise Control Areas”—

“A2.—(1) For the purposes of section 21(2) (control of movement of aircraft, etc., into and out of the United Kingdom) references to an aircraft shall be treated as including references to a through train, and in relation to such trains section 21 shall be construed in accordance with sub—paragraphs (2) to (5).

(2) References to a customs and excise airport shall be construed as references to a terminal control point or a place which is a customs approved area.

(3) References to a flight shall be construed as references to a journey, and the reference in section 21(4) to flying shall be construed accordingly.

(2) Section 21 was amended by the Customs Controls on Importation of Goods Regulations 1991 (S.I.1991/2724), regulation 6(4) and (5), and the exercise of powers under the section was restricted by the Finance (No.2) Act 1992 (c. 48), section 4.

(4) References to landing shall be construed as references to stopping for the purpose of enabling passengers or crew to board or leave the train or goods to be loaded onto or unloaded from it.

(5) References to the commander of an aircraft shall be construed as references to the train manager of a train.”.

13. Paragraph 1 of the Schedule is amended by inserting after the words “section 27” the words “and as if a through train fell within those paragraphs while it constituted a control zone in France”.

14. The Schedule is amended by inserting after paragraph 3—

“**3A.** In section 31(1)(3) (control of movement of goods to and from inland clearance depot, etc.) the reference to the place of importation shall be construed as including a reference to a customs approved area in France.”.

15. Paragraph 4 of the Schedule is amended by substituting for the words after “the reference to” the words “a ship or aircraft departing from any place shall be construed as including a reference to a vehicle which departs from a place which is a customs approved area.”.

16. The Schedule is amended by inserting after paragraph 4—

“**4A.**—(1) For the purposes of section 33 (power to inspect aircraft, aerodromes, records, etc.) references to an aircraft shall be treated as including references to a through train and to a shuttle train, and in relation to such trains section 33—

(a) shall have effect as if in section 33(3) the words from “licensed” to “other aerodrome” had not been enacted, and

(b) shall be construed in accordance with sub—paragraphs (2) and (3).

(2) The reference in section 33(1) to the commander of an aircraft shall be construed as a reference to the train manager of a train.

(3) References to an aerodrome shall be construed as references to a place which is a customs approved area.

4B.—(1) For the purposes of section 34(4) (power to prevent flight of aircraft) references to an aircraft shall be treated as including references to a through train, and in relation to such trains section 34 shall be construed in accordance with sub—paragraphs (2) to (4).

(2) References to a customs and excise airport shall be construed as references to a place which is a customs approved area.

(3) References to a flight shall be construed as references to a journey, and any cognate expression shall be construed accordingly.

(4) The reference in section 34(3) to the commander of an aircraft shall be construed as a reference to the train manager of a train.”.

17. Paragraph 5 of the Schedule is amended—

(a) in sub—paragraph (1) by substituting for the word “vehicle” the words “through train” and for the words “a vehicle entering Northern Ireland by land” the words “a ship arriving at a port from a place outside the United Kingdom”; and

(b) in sub—paragraph (2) by substituting for the word “vehicle” the words “through train” and for the words “a vehicle which has crossed the boundary into Northern Ireland” the

(3) Section 31 was amended by the Finance Act 1981 (c. 35), section 10(2) and Schedule 7, Part II, paragraph 1(1) to (4), and by the Finance Act 1984 (c. 43), section 8 and Schedule 4, Part II, paragraph 2.

(4) Section 34 was amended by the Isle of Man Act 1979 (c. 58), section 13 and Schedule 1; the exercise of powers under section 34 was restricted by the Finance (No.2) Act 1992, section 4.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

words “a ship carrying goods arriving in or over United Kingdom waters, and in relation to such a vehicle the reference to the master of such a ship shall be construed as a reference to the person in charge of the vehicle”.

18. The Schedule is amended by inserting after paragraph 5—

“**5A.** In section 40(5)(5) (removal of uncleared goods to Queen’s warehouse) the references to a ship or aircraft shall be construed as including references to a through train.”.

19. Paragraph 6 of the Schedule is amended by substituting for the words after “vehicle arriving” the words “at a place which is a customs approved area either in France or through the tunnel from France”.

20. The Schedule is amended by substituting for paragraph 7—

“**7.** In section 49(1) (forfeiture of goods improperly imported)—

- (a) the reference in paragraph (a)(ii) to goods unloaded from any aircraft in the United Kingdom shall be construed as including a reference to goods unloaded from a through train or shuttle train which has brought them into the United Kingdom and a reference to goods otherwise brought through the tunnel into the United Kingdom; and
- (b) the reference in paragraph (c) to goods found to have been concealed on board any aircraft shall be construed as including references to goods found concealed—
 - (i) on a through train or shuttle train which has brought them into the United Kingdom,
 - (ii) on a through train while it constitutes a control zone in France, or
 - (iii) in a road vehicle in a control zone in France within the tunnel system.”.

21. Paragraph 8(a) of the Schedule is amended by inserting after the words “through the tunnel” the words “, or who brings or assists or is otherwise concerned in the bringing of such goods into a control zone in France,”.

22. Paragraph 9 of the Schedule is amended by inserting after the words “(authentication of Community customs documentation)” the words “and in section 62 (information, documentation, etc.as to export goods)”.

23. The Schedule is amended by inserting after paragraph 12—

“**12A.** In section 59(6) (restrictions on putting export goods alongside for loading)—

- (a) in construing the references in section 59(1) to shipment for exportation and in section 59(2)(a) to loading for exportation regard shall be had to paragraph 9 above; and accordingly
- (b) references in section 59(2) to a ship or aircraft shall be construed as including references to a vehicle.”.

24. Paragraph 13 of the Schedule is amended—

- (a) by inserting after the words “departing from” the words “a place which is”;
- (b) by substituting for the words “United Kingdom”, wherever occurring, the words “member States”; and
- (c) in sub—paragraph (a) by substituting for the words “person in charge of a vehicle” the words “train manager”.

(5) Section 40 was amended by the Finance Act 1981, section 10(1) and Schedule 6, paragraph 5.

(6) Section 59 was amended by the Finance Act 1981, section 10(2) and Schedule 7, Part II, paragraph 3.

- 25.** Paragraph 14 of the Schedule is amended in sub—paragraph (2) by substituting—
- (a) for the words “person in charge of a vehicle” the words “train manager”, and
 - (b) for the words “in charge thereof”, where first occurring, the words “the train manager”.
- 26.** Paragraph 16 of the Schedule is amended by substituting for the words “person in charge of the vehicle” the words “train manager”.
- 27.** The Schedule is amended by inserting after paragraph 17—
- 17A.** For the purposes of section 77(7) (information in relation to goods imported or exported) goods about to be loaded onto a vehicle for exportation through the tunnel shall be treated as goods about to be shipped for exportation, and the reference in subsection (3) to shipment shall be construed accordingly.
- 17B.** For the purposes of section 78(8) (customs and excise control of persons entering or leaving the United Kingdom)—
- (a) a person intending to travel to the United Kingdom through the tunnel who has entered a control zone in France shall be treated as a person entering the United Kingdom,
 - (b) a person who has travelled from the United Kingdom through the tunnel and is in such a control zone shall be treated as still being a person leaving the United Kingdom, and
 - (c) concealment shall be taken to include concealment in such a control zone.
- 17C.** For the purposes of section 83(1)(9) (penalty for removing seals, etc.)—
- (a) goods which are in a control zone in France shall be treated as being in the United Kingdom, and
 - (b) goods in a through train shall be deemed to be in the charge of the person operating the international service on which the train is engaged,
- and for the purposes of section 83(3)(b) goods which are in a control zone in France within the tunnel system shall be treated as being in the United Kingdom.”.
- 28.** Paragraph 18 of the Schedule is amended by inserting after the words “(whether in England or in France)” the words “and a reference to a through train, and the reference to the United Kingdom shall be construed as including a reference to a control zone in France”.
- 29.** The Schedule is amended by inserting after paragraph 18—
- 18A.** In section 86(10) (special penalty where offender armed or disguised) the reference to the United Kingdom shall be construed as including a reference to a control zone in France.”.
- 30.** The Schedule is amended by inserting immediately below the sub—heading “Part XI of the Act of 1979: Detention of Persons, Forfeiture and Legal Proceedings”
- 20A.** The power conferred by section 139(1) to seize or detain any thing liable to forfeiture shall be taken to include a power for any officer or constable to seize or detain any such thing in a control zone in France.”.
- 31.** Paragraph 21 of the Schedule is amended by substituting for the words “person in charge of it” the words “train manager”.

(7) Section 77 was repealed in part by the Finance Act 1987 (c. 16), sections 10 and 72(7) and Schedule 16, Part III.

(8) Section 78 was amended by the Isle of Man Act 1979, section 13 and Schedule 1, and by the Finance (No.2) Act 1992, section 5; the exercise of powers under section 78 was restricted by the Finance (No. 2) Act 1992, section 4.

(9) Section 83 was amended by the Isle of Man Act 1979, section 13 and Schedule 1.

(10) Section 86 was amended by the Police and Criminal Evidence Act 1984 (c. 60), section 114(1).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

32. Paragraph 22 of the Schedule is amended by inserting after the words “through the tunnel” the words “, and in relation to such a vehicle the second reference to the United Kingdom shall be construed as including a reference to a control zone in France within the tunnel system”.

33. The Schedule is amended by substituting for paragraph 25—

“**25.** The persons to whom section 164(**11**) (search of persons) applies shall be taken to include any person who is—

- (a) in the tunnel system in the United Kingdom;
- (b) in a through train in the United Kingdom;
- (c) in, entering or leaving a customs approved area in the United Kingdom; or
- (d) in a control zone in France.”.

(11) Section 164 was amended by the Isle of Man Act 1979, section 13 and Schedule 1, paragraph 6; by the Finance Act 1984, section 8 and Schedule 4, Part II, paragraph 6; and by the Finance Act 1988 (c. 39), section 10.