



IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006

IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 (DUTY TO SHARE INFORMATION) ORDER 2011

Laid before Tynwald

Coming into operation

29 June 2011

The Governor and the Treasury make the following Order under section 36(4) of the Immigration, Asylum and Nationality Act 2006¹ (of Parliament) as it has effect in the Isle of Man².

The Governor and the Treasury are satisfied that the sharing of information pursuant to article 2 or 3 of this Order is likely to be of use for immigration purposes, police purposes or customs purposes and that the nature of the information shared pursuant to either of those articles is such that there are likely to be circumstances in which it can be shared without breaching Convention rights (within the meaning of the Human Rights Act 2001³).

1 Title

This Order is the Immigration, Asylum and Nationality Act 2006 (Duty to Share Information) Order 2011.

2 Commencement

This Order comes into operation on 29 June 2011.

¹ 2006 c. 13.

² See the Immigration (Isle of Man) Order 2008 (SI 2008/680) as amended by the Immigration (Isle of Man) (Amendment) Order 2010 (SI 2011/ 1408).

³ 2001 c. 1. The requirement set out in the second recital reflects the terms of section 32(7) of the 2006 UK Act as that section has effect in the Isle of Man.

3 Interpretation

(1) In this Order—

“the 1971 UK Act” means the Immigration Act 1971⁴ (of Parliament);

“the 1986 Island Act” means the Customs and Excise Management Act 1986⁵; and

“the 2006 UK Act” means the Immigration, Asylum and Nationality Act 2006 (of Parliament).

(2) In this Order any reference to an Act of Parliament, or a provision of an Act of Parliament, which extends to the Isle of Man is a reference to that Act or provision as it has effect in the Isle of Man.

4 Duty to share information obtained or held under specified powers

(1) Subject to paragraph (2), the powers contained in the provisions set out in Schedule 1 to this Order are specified for the purposes of section 36(4)(a) of the 2006 UK Act (duty to share information).

(2) The powers are specified only to the extent to which they relate to—

- (a) passengers on a ship or aircraft;
- (b) crew of a ship or aircraft;
- (c) freight on a ship or aircraft; or
- (d) flights or voyages.

5 Duty to share information relating to other matters specified in respect of travel or freight

(1) Subject to paragraph (2), the matters in respect of travel and freight set out in Schedule 2 to this Order are specified for the purposes of section 36(4)(b) of the 2006 UK Act (duty to share information).

(2) A matter shall not be construed as being specified if or in so far as—

⁴ 1971 c. 77

⁵ 1986 c. 34

- (a) disclosure of information relating to it may prejudice an investigation or prosecution whether in the Isle of Man or elsewhere;
- (b) the consent of a third party is required for disclosure of information relating to it and that consent has not been obtained;
- (c) disclosure of information relating to it is likely to cause loss of life or serious injury to any person;
- (d) non-disclosure of information relating to it is necessary for the purpose of safeguarding national security; or
- (e) disclosure of information relating to it would be in breach of an obligation of the United Kingdom or Her Majesty's Government under an international or other agreement.

MADE



Lieutenant Governor



Minister for the Treasury

SCHEDULE 1

[Article 4(1)]

POWERS SPECIFIED FOR THE PURPOSES OF SECTION 36(4)(a) OF THE 2006 UK ACT

The provisions are—

- (a) an order made under paragraph 27(2) of Schedule 2 to the 1971 UK Act (power to require provision of information in respect of a ship or an aircraft)⁶;
- (b) paragraph 27B of Schedule 2 to the 1971 UK Act (passenger information)⁷;
- (c) paragraph 27C of Schedule 2 to the 1971 UK Act (notification of non-EEA arrivals on a ship or aircraft)⁸;
- (d) section 32 of the 2006 UK Act (passenger and crew information: police powers);
- (e) section 27 of the 1986 Island Act (report inwards) and any directions or regulations made under that provision;
- (f) section 65 of the 1986 Island Act (clearance outwards of ships and aircraft)⁹ and any directions made under that provision;
- (g) section 78 of the 1986 Island Act (information in relation to goods imported or exported)¹⁰; and
- (h) articles 181b (entry summary declaration) and 842a (exit summary declaration) and Annex 30A of Regulation (EEC) No 2454/93¹¹.

⁶ Paragraph 27(2) of Schedule 2 to the 1971 UK Act has been substituted by section 31 of the 2006 UK Act.

⁷ Paragraph 27B of Schedule 2 to the 1971 UK Act was inserted by section 18 of the Immigration and Asylum Act 1999 (c. 33) and subsequently amended by section 16 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19) and section 31 of the 2006 UK Act.

⁸ Paragraph 27C of Schedule 2 to the 1971 UK Act was inserted by section 19 of the Immigration and Asylum Act 1999.

⁹ Section 65(1) is amended by S.D. 86/93, and section 65(4) is amended by the Customs and Excise Act 1991 (1991 c. 7).

¹⁰ Subsection (1)(a) is amended by S.D. 86/93.

¹¹ OJ L 253, 11.10.1993 as last amended by Regulation (EC) No 402/2006 (OJ L 70, 9.3.2006). Articles 181b and 842a and Annex 30A were inserted by Regulation (EC) No 1875/2006 (OJ L 360, 19.12.2006) and are applicable from 1st July 2009.

SCHEDULE 2

[Article 5(1)]

OTHER MATTERS IN RESPECT OF TRAVEL AND FREIGHT SPECIFIED FOR THE PURPOSES OF SECTION 36(4)(b) OF THE 2006 UK ACT

The matters are—

- (a) the behaviour or suspected behaviour of a passenger, member of crew or person involved in the supply chain of a freight movement, whether already undertaken or anticipated, and including any possible connection with another person held by that passenger, member of crew or person;
- (b) the behaviour or suspected behaviour of a person (“the suspect”) connected or possibly connected to a passenger, member of crew or person involved in the supply chain of a freight movement, whether already undertaken or anticipated, and including any possible connection with another person held by the suspect;
- (c) any action taken, considered or planned in relation to a passenger, member of crew, person involved in the supply chain of a freight movement or any person connected or possibly connected to any of those persons by—
 - (i) the Governor in so far as he has functions under the Immigration Acts;
 - (ii) the Chief Constable; or
 - (iii) the Treasury.

EXPLANATORY NOTE

(This note is not part of the Order)

The Governor and the Treasury have made this Order under section 36 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 UK Act”) as it has effect in the Isle of Man. This Order makes provision in respect of information which is to be, or may be, shared by the Governor (in so far as he has functions under the Immigration Acts), the Chief Constable and the Treasury under section 36 of the 2006 UK Act.

Articles 4 and 5 of this Order make provision in respect of the information that must be shared between those persons under section 36 of the 2006 UK Act. The information is defined by reference to the powers under which it is obtained, the relevant provisions being specified in Schedule 1, and by reference to the matters to which it relates, specified in Schedule 2.