Draft Regulations laid before Parliament under sections 17(8) and 21(7) of the Identity Cards Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

IDENTITY CARDS

The Identity Cards Act 2006 (Provision of Information without Consent) Regulations 2009

Made - - - -	***
Coming into force - -	***

The Secretary of State, in exercise of the powers conferred by sections 17(5)(**1**), 21(2)(a), (4)(a) and (5), 40(4) and 42(1)(**2**) of the Identity Cards Act 2006(**3**), makes the following Regulations.

In accordance with sections 17(8) and 21(7) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Identity Cards Act 2006 (Provision of Information without Consent) Regulations 2009 and shall come into force on the day after the day on which they are made.

(2) In these Regulations—

"Commissioner" means the National Identity Scheme Commissioner(**4**);

"consular functions" has the meaning given to it in Article 5 of the Vienna Convention on Consular Relations done at Vienna on 24 April 1963;(**5**);

"identity document" has the meaning given to it in section 26 of the 2006 Act;

"intelligence service" means the Security Service, the Secret Intelligence Service or GCHQ (as defined in section 3(3) of the Intelligence Services Act 1994)(**6**);

(**1**) Section 17(7) contains a limit on the enabling powers in subsection (5).
(**2**) See definition of "prescribed".
(**3**) 2006 c. 15.
(**4**) Appointed under section 22 of the Identity Cards Act 2006.
(**5**) United Nations, Treaty Series, Vol. 596, p. 261.
(**6**) 1994 c. 13.

"officer of Revenue and Customs" means a member of staff appointed by the Commissioners for Her Majesty's Revenue and Customs under section 2(1) of the Commissioners for Revenue and Customs Act 2005(**7**);

"passport" means—

(a) a United Kingdom passport (within the meaning of the Immigration Act 1971(**8**)); or

(b) a document that can be used (in some or all circumstances) instead of a United Kingdom passport;

"personal data" has the meaning given to it in section 1(1) of the Data Protection Act 1998(**9**);

"sums adjudged to be paid by a conviction or order of a magistrates' court" shall be construed as including a reference to any costs, damages or compensation adjudged to be paid by the conviction or order of which the amount is ascertained by the conviction or order; and

"the 2006 Act" means the Identity Cards Act 2006.

(3) In these Regulations any reference to—

(a) a function carried out under a particular enactment, includes a reference to a function carried out under subordinate legislation made under that enactment; and

(b) the processing of information or data means processing as defined in section 1(1) of the Data Protection Act 1998.

Prescribed government departments and functions

2.—(1) The following government departments and functions of that department or Minister in charge of it are prescribed for the purposes of section 17(5) of the 2006 Act—

(a) the Home Office for the functions—

(i) carried out under Part 5 of the Police Act 1997(**10**);

(ii) of the issue, manufacture, modification, cancellation or surrender of passports;

(iii) of the prevention or detection of crime;

(iv) of safeguarding national security; and

(v) relating to immigration, asylum or nationality;

(b) the Ministry of Justice for the functions of—

(i) repatriating British nationals imprisoned overseas; and

(ii) assisting with the enforcement of:

(aa) sums adjudged to be paid by a conviction or order of a magistrates' court; or

(bb) other orders imposed by a magistrates' court or the Crown court;

(c) subject to paragraph (3), the Department for Transport for the functions carried out under —

(i) Part 3 of the Road Traffic Act 1988(**11**); and

(ii) Part 10 of the Merchant Shipping Act 1995(**12**);

(d) the Department for Work and Pensions for the functions of the prevention, detection, investigation or prosecution of offences relating to social security; and

(**7**) 2005 c. 11.
(**8**) 1971 c. 77.
(**9**) 1998 c. 29.
(**10**) 1997 c. 50.
(**11**) 1988 c. 52.
(**12**) 1995 c. 21.

(e) the Foreign and Commonwealth Office for—

(i) the functions of manufacture, modification, cancellation or surrender of passports; and

(ii) consular functions.

(2) Subject to paragraph (3), the Department of the Environment (Northern Ireland) for the functions carried out under Part 2 of the Road Traffic (Northern Ireland) Order 1981(**13**) is prescribed for the purposes of section 17(5).

(3) The functions referred to in paragraphs (1)(c) and (2) are only prescribed to the extent to which those functions are being exercised for the purpose of preventing or detecting crime.

Provision of information to another person

3.—(1) Subject to regulations 4 and 5, information that may be provided under any of sections 17 to 20 of the 2006 Act to—

(a) a chief officer of police;

(b) the Director-General of the Security Service;

(c) the Chief of the Secret Intelligence Service;

(d) the Director of the Government Communication Headquarters;

(e) the Director General of the Serious Organised Crime Agency; or

(f) subject to paragraph (5), the Commissioners for Her Majesty's Revenue and Customs,

may be provided instead to another person if the conditions set out in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are that that other person (P)—

(a) is authorised by a person referred to in paragraph (1) to be a recipient of information provided under that section;

(b) holds the relevant rank or position specified in paragraph (3) or (4); and

(c) is under the direction or control, or is otherwise answerable or subordinate to that person in respect of any of P's duties as a person holding that rank or position.

(3) In a case where P is authorised to be a recipient of information by a chief officer of police, the rank of—

(a) inspector or above is specified in respect of information not falling within paragraph 9 of Schedule 1 to the 2006 Act; and

(b) superintendent or above is specified in respect of information falling within that paragraph.

(4) In a case where P is authorised to be a recipient of information by—

(a) the Director-General of the Security Service, the position of a member of that Service is specified;

(b) the Chief of the Secret Intelligence Service, the position of a member of that Service is specified;

(c) the Director of the Government Communication Headquarters, the position of a member of the GCHQ is specified;

(d) the Director General of the Serious Organised Crime Agency, the position of an employee of that Agency is specified; and

(e) a Commissioner for Her Majesty's Revenue and Customs, the position of an officer of Revenue and Customs is specified.

(**13**) 1981 No. 154 (N.I. 1).