Draft Order laid before Parliament under sections 36(8) and 38(7) of the Immigration, Asylum and Nationality Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

IMMIGRATION
POLICE
REVENUE AND CUSTOMS

The Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008

Made - - - -	***
Coming into force - -	*1st March 2008*

The Secretary of State and the Treasury make the following Order in exercise of the powers conferred by sections 36(4) and 38(4) of the Immigration, Asylum and Nationality Act 2006(**1**).

In accordance with sections 36(8) and 38(7) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State 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 Revenue and 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 1998(**2**)).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008 and shall come into force on 1st March 2008.

(**1**) 2006 c. 13. Section 36 of the 2006 Act has been amended by section 14 of, and Schedule 15 to, the Police and Justice Act 2006 (c. 48) but that amendment is not yet in force. Section 38 of the 2006 Act has been amended by section 14 of the Police and Justice Act 2006 but that amendment is not yet in force. Sections 36 and 38 of the 2006 Act apply with modifications in respect of trains arriving and departing the United Kingdom via the Channel Tunnel: articles 4 and 7 of S.I. 1993/1813 and S.I. 1994/1405 (relevant amendments have been made by S.I. 1996/2283; S.I. 2001/1544; S.I. 2006/2627; S.I. 2007/2908; and S.I. 2007/3579) and paragraph 3A of Schedule 4 to S.I. 1993/1813 as inserted by S.I. 2007/3579.

(**2**) 1998 c. 42. The requirement set out in the third recital reflects the terms of section 36(5) of the 2006 Act.

(2) In this Order—

"the 2006 Act" means the Immigration, Asylum and Nationality Act 2006; and

"shuttle train", "through train" and "international service" have the same meanings as in the Channel Tunnel (International Arrangements) Order 1993(**3**).

(3) Any power specified in this Order for the purposes of section 36(4)(a) or section 38(4)(a) of the 2006 Act should be read as including a reference to that power as modified under section 11 of the Channel Tunnel Act 1987 (regulation of the tunnel system: application and enforcement of law, etc).

Duty to share information obtained or held under specified powers

2.—(1) Subject to paragraphs (2) and (3), 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 Act (duty to share information).

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

(a) passengers on a ship or aircraft or through train or shuttle train;

(b) crew of a ship or aircraft or through train or shuttle train;

(c) freight on a ship or aircraft or through train or shuttle train; or

(d) flights or voyages or international services.

(3) A power shall not be construed as being specified if or in so far as it relates to a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (former Inland Revenue matters)(**4**) applies.

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

3.—(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 Act (duty to share information).

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

(a) disclosure of information relating to it may prejudice an investigation or prosecution whether in the United Kingdom 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.

(**3**) S.I. 1993/1813; see article 2(1) of, and Schedule 1 to, that instrument for the relevant definitions. S.I. 1993/1813 has been amended by various instruments but none of those amendments are relevant to these definitions.

(**4**) 2005 c. 11. Former Inland Revenue Matters are listed in Schedule 1 to the 2005 Act. Paragraph 26 of Schedule 1 was amended by section 11 of, and paragraph 61 of Schedule 1 to, the Work and Families Act 2006 (c.18).

Disclosure of information for security purposes: information obtained or held under specified powers

4.—(1) Subject to paragraphs (2) and (3), the powers contained in the provisions set out in Schedule 1 to this Order are specified for the purposes of section 38(4)(a) of the 2006 Act (disclosure of information for security purposes).

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

(a) passengers on a ship or aircraft or through train or shuttle train;

(b) crew of a ship or aircraft or through train or shuttle train;

(c) freight on a ship or aircraft or through train or shuttle train; or

(d) flights or voyages or international services.

(3) A power shall not be construed as being specified if or in so far as it relates to a matter to which section 7 of the Commissioner for Revenue and Customs Act 2005 (former Inland Revenue matters) applies.

Disclosure of information for security purposes: information relating to other matters specified in respect of travel or freight

5. The matters in respect of travel and freight set out in Schedule 2 to this Order are specified for the purposes of section 38(4)(b) of the 2006 Act (disclosure of information for security purposes).

Signed by authority of the Secretary of State

Home Office
Date

Minister of State

Treasury
Date

Two of the Lords Commissioners of Her Majesty's Treasury