

SCHEDULE

Article 2

AMENDMENTS TO THE IMMIGRATION (ISLE OF MAN) ORDER 2008

Extension of the Immigration Act 1971(1) to the Isle of Man

1. In article 6(2)(c), after “30 (return of mental patients),” insert “31A (procedural requirements as to applications),”.

2. In Schedule 3 (the Immigration Act 1971)—

(a) in paragraph 10, at the end insert—

“(4) In subsection (4)—

(a) in paragraph (a), after “his wife” insert “ or civil partner,”; and

(b) in paragraph (b), after “her husband” insert “ or civil partner.”.”;

(b) omit paragraph 44;

(c) in paragraph 49—

(i) in subparagraph (3); and

(ii) in subparagraph (4), in the substituted subparagraph (3),

in each place it occurs, omit “and Social Security”;

(d) in paragraph 56(4), in subparagraph (4), in the inserted subparagraph (5), omit “and Social Security”;

(e) for paragraph 76 substitute—

“76.—(1) Paragraph 27 of Schedule 2 is modified as follows.

(2) For “United Kingdom”, in each place it occurs, substitute “Isle of Man”.

(3) In subparagraph (2) for “Secretary of State” substitute “Governor”.

(4) In subparagraph (5)(b), after “in which” insert “, and the person to whom,”.

(5) At the end of subparagraph (5)(a), insert “and”.

(6) At the end of subparagraph (5)(b), omit the comma and insert a full-stop.

(7) Omit subparagraph (5)(c) and (d).”;

(f) in paragraph 77, after subparagraph (2) insert—

“(2A) In subparagraph (2), at the end insert “or as the officer directs”.”.

Extension of the Asylum and Immigration Act 1996(2) to the Isle of Man

3.—(1) In article 12(2), omit subparagraph (c).

(2) In Schedule 5 (the Asylum and Immigration Act 1996)—

(a) in paragraph 1(3), for “Trade and Industry” substitute “Economic Development”;

(b) omit paragraph 2.

Extension of the Immigration and Asylum Act 1999(3) to the Isle of Man

4. In article 14(2)—

(1) 1971 c. 77.

(2) 1996 c. 49.

(3) 1999 c. 33.

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- (a) omit subparagraph (a)(viii); and
 - (b) for subparagraph (e)(i), for “165” substitute “166”.
5. In Schedule 6 (the Immigration and Asylum Act 1999)—
- (a) after paragraph 6 insert—
 - “6A. After section 24 insert—
 - 24A. Duty to report suspicious civil partnerships
 - (1) Subsection (3) applies if—
 - (a) a registrar to whom a notice of proposed civil partnership has been given under section 9 of the Civil Partnership Act 2011 (an Act of Tynwald), or
 - (b) any person who, under section 9 of that Act, has attested a declaration accompanying such a notice,has reasonable grounds for suspecting that the civil partnership will be a sham civil partnership.
 - (2) Subsection (3) also applies if—
 - (a) two people register as civil partners of each other under Part 2 of that Act in the presence of the registrar, and
 - (b) before, during or immediately after they do so, the registrar has reasonable grounds for suspecting that the civil partnership will be, or is, a sham civil partnership.
 - (3) The person concerned must report his suspicion to the Governor without delay and in such form and manner as may be prescribed by regulations.
 - (4) The regulations are to be made by the Clerk of the Rolls.
 - (5) “Sham civil partnership” means a civil partnership (whether or not void)—
 - (a) formed between a person (“A”) who is neither a British citizen nor a national of an EEA State other than the United Kingdom and another person (whether or not such a citizen or such a national), and
 - (b) formed by A for the purpose of avoiding the effect of one or more provisions of Isle of Man immigration law or the immigration rules.”;
 - (b) in paragraph 7(6), in the inserted subsection (6A), for “Transport” substitute “Infrastructure”.

Extension of the Nationality, Immigration and Asylum Act 2002(4) to the Isle of Man

6. In Schedule 7 (the Nationality, Immigration and Asylum Act 2002), in paragraph 37(3), in the substituted subsection (4), omit “and Social Security”.

Extension of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(5) to the Isle of Man

7. In Schedule 8 (the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004), in paragraph 13(6), in the inserted subsection (6A), for “Trade and Industry” substitute “Economic Development”.

(4) 2002 c. 41.

(5) 2004 c. 19.

Extension of the Immigration, Asylum and Nationality Act 2006(6) to the Isle of Man

- 8.**—(1) In article 20(2), for subparagraphs (k) to (u) substitute—
- “(k) section 31 (provision of information to immigration officers);
 - (l) section 32 (passenger and crew information);
 - (m) section 34 (offence);
 - (n) section 36 (duty to share information);
 - (o) section 37 (information sharing: code of practice);
 - (p) section 39 (disclosure to law enforcement agencies);
 - (q) section 42 (information: embarking passengers);
 - (r) section 48 (removal: cancellation of leave);
 - (s) section 50 (procedure);
 - (t) section 51 (fees);
 - (u) subsections (1) to (6) of section 52 (fees: supplemental);
 - (v) subsection (7) of section 52 (fees: supplemental) in so far as is necessary for the purposes of the next paragraph;
 - (w) the following paragraphs of Schedule 2 (fees: consequential amendments)—
 - (i) paragraph 4;
 - (ii) paragraph 6;
 - (x) section 53 (arrest pending deportation);
 - (y) section 54 (Refugee Convention: construction);
 - (z) section 57 (deprivation of right of abode); and
 - (aa) section 64 (citation).”.
- (2) After article 20(2) insert—
- “(3) For the avoidance of doubt, it is declared that references in this article and article 21 to the 2006 Act are to that Act as it has effect without the amendments and repeals made in it by the Police and Justice Act 2006 (c.48).”.
- 9.** In Schedule 9 (the Immigration, Asylum and Nationality Act 2006)—
- (a) for paragraph 1 substitute—
 - “**1.**—(1) Section 4 of the 2006 Act is modified as follows.
 - (2) Omit subsections (2) and (3).
 - 1A.**—(1) Section 7 of the 2006 Act is modified as follows.
 - (2) Omit subsection (2).”;
 - (b) after paragraph 4 insert—
 - “**4A.**—(1) Section 32 of the 2006 Act is modified as follows.
 - (2) For “United Kingdom”, in each place it occurs, substitute “Isle of Man”.
 - (3) For “Secretary of State”, in each place it occurs, substitute “Governor”.
 - (4) In subsection (4), for the words from “necessary” to the end substitute “necessary for police purposes”.

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- (5) In subsection (5), for paragraphs (b) and (c) substitute—
 - “(b) “police purposes” means any of the following—
 - (i) the prevention, detection, investigation or prosecution of criminal offences;
 - (ii) safeguarding national security;
 - (iii) such other purposes as may be specified in an order made by the Governor;
 - (c) “constable” means any officer or member of the Isle of Man Constabulary.”.
- (6) In subsection (7), for “Human Rights Act 1998 (c.42)” substitute “Human Rights Act 2001 (an Act of Tynwald)”.
- (7) In subsection (8)—
 - (a) at the end of paragraph (b) insert “and”;
 - (b) at the end of paragraph (c), for the comma substitute a full-stop; and
 - (c) omit paragraphs (d) and (e).

4B.—(1) Section 34 of the 2006 Act is modified as follows.

- (2) In subsection (1), omit “or 33(2)”.
- (3) Omit subsections (2) and (4).
- (4) For subsection (3) substitute—
 - “(3) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to—
 - (a) custody for a term not exceeding 6 months,
 - (b) a fine not exceeding level 4 on the standard scale, or
 - (c) both.”.

4C.—(1) Section 36 of the 2006 Act is modified as follows.

- (2) For “Secretary of State”, in each place it occurs, substitute “Governor”.
- (3) In subsection (1), for paragraphs (b) and (c) substitute—
 - “(b) the Chief Constable; and
 - (c) the Treasury.”.
- (4) In subsection (2), for paragraph (c) substitute—
 - “(c) customs purposes.”.
- (5) Omit subsection (3).
- (6) In subsection (5)—
 - (a) in subparagraph (a)(iii) for “Revenue and Customs” substitute “customs”; and
 - (b) in subparagraph (b), for “Human Rights Act 1998 (c.42)” substitute “Human Rights Act 2001 (an Act of Tynwald)”.
- (7) In subsection (6)(b), for “Revenue and Customs” substitute “customs”.
- (8) Omit subsections (7) and (8).
- (9) For subsection (9) substitute—
 - “(9) In this section—
 - “customs purposes” means any of the Treasury’s functions in relation to—

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- (a) the prevention, detection, investigation or prosecution of criminal offences under the Acts specified in subsection (9A);
- (b) the prevention, detection or investigation of conduct in respect of which penalties which are not criminal penalties are provided for by or under any of those Acts;
- (c) the assessment or determination of penalties under those Acts which are not criminal penalties;
- (d) checking the accuracy of information relating to, or provided for purposes connected with, any matter which by virtue of any of those Acts is under the care and management of the Treasury or any assigned matter (as defined by section 184 of the Customs and Excise Management Act 1986 (an Act of Tynwald));
- (e) amending or supplementing any such information (where appropriate);
- (f) legal or other proceedings relating to anything mentioned in paragraphs (a) to (e);
- (g) safeguarding national security; and
- (h) such other purposes as may be specified in an order made by the Governor;

“immigration purposes” means any of the following—

- (a) the administration of immigration control under the Immigration Acts;
- (b) the prevention, detection, investigation or prosecution of criminal offences under those Acts;
- (c) the imposition of penalties or charges under Part II of the Immigration and Asylum Act 1999 (c.33);
- (d) such other purposes as may be specified in an order made by the Governor;

“police purposes” has the same meaning as in section 32.

(9A) The Acts referred to in the definition of “customs matters” in subsection (9) are—

- (a) the customs and excise Acts (as defined by section 184 of the Customs and Excise Management Act 1986 (an Act of Tynwald)), and
- (b) the Value Added Tax Act 1996 (an Act of Tynwald).”.

4D.—(1) Section 37 of the 2006 Act is modified as follows.

- (2) For “Secretary of State”, in each place it occurs, substitute “Governor”.
- (3) In subsection (2)(a), for “Parliament” substitute “Tynwald”.
- (4) Omit subsection (4).

4E.—(1) Section 39 of the 2006 Act is modified as follows.

(2) For subsections (1) and (2) substitute—

“(1) The Chief Constable may disclose information obtained in accordance with section 32 to—

- (a) the chief officer of police of a police force maintained under the Police Act 1996 (c.16);
- (b) the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c.77);
- (c) the chief constable of the Police Service of Northern Ireland;

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- (d) the States of Jersey police force;
 - (e) the salaried police force of the Island of Guernsey;
 - (f) any other foreign law enforcement agency.
- (2) In subsection (1) “foreign law enforcement agency” means a person outside the Isle of Man with functions similar to functions of the Isle of Man Constabulary.”
- (3) Omit subsection (3).”; and
- (c) for paragraph 5(3) substitute—
 “(3) Omit subsections (3) and (6).”.

Texts of the Immigration legislation as extended to the Isle of Man

10. Schedule 10 (the text of the Immigration legislation as extended to the Isle of Man) is amended as follows.

11.—(1) In Part 1 (the Immigration Act 1971(7))—

- (a) in section 5(4) (procedure for, and further provisions as to, deportation)—
 - (i) in paragraph (a), after “his wife” insert “or civil partner,”; and
 - (ii) in paragraph (b), after “her husband” insert “or civil partner,”;
 - (b) in section 27 (offences by persons connected with ships or aircraft or with ports)—
 - (i) for paragraph (b)(iv) substitute—
 - “(iv) he fails, without reasonable excuse, to comply with a requirement imposed by or under Schedule 2;”; and
 - (ii) for paragraph (c) substitute—
 - “(c) if, as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.”;
 - (c) omit section 31A (procedural requirements as to applications); and
 - (d) in section 33(1) (interpretation), in the definitions of “entry clearance”, “limited leave” and “indefinite leave” and “work permit”, for “United Kingdom”, in each place it occurs, substitute “Isle of Man”.
- (2) In Schedule 2 (administrative provisions as to control on entry, etc) in Part 1—
- (a) in paragraphs 1(2) and (3) and 7(5)(b), omit “and Social Security”;
 - (b) in paragraph 27—
 - (i) in subparagraph (3), for “United Kingdom”, in each place it occurs, substitute “Isle of Man”; and
 - (ii) in subparagraph (5)—
 - (aa) at the end of subparagraph (5)(a), insert “and”; and
 - (bb) in subparagraph (5)(b), for “in which” to the end substitute “in which, and the person to whom, information is provided.”; and
 - (c) in paragraph 27B—
 - (i) in subparagraph (2)—

(7) 1971 c. 77.

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- (aa) after “for passenger information” insert “or service information”; and
 - (bb) after “information to the officer” insert “or as the officer directs”;
 - (ii) in subparagraph (3), after “for passenger information” insert “or service information”; and
 - (iii) after subparagraph (9) insert—
 - “(9A) “Service information” means such information relating to the voyage or flight undertaken by the ship or aircraft as may be specified.”.
- 12.** In Part 3 (the Asylum and Immigration Act 1996⁽⁸⁾)—
- (a) in section 8(1) and (2) (restrictions on employment), for “Trade and Industry” substitute “Economic Development”; and
 - (b) omit section 8A (code of practice).
- 13.** In Part 4 (the Immigration and Asylum Act 1999⁽⁹⁾)—
- (a) after section 24 (duty to report suspicious marriages) insert—
 - “**24A.** Duty to report suspicious civil partnerships
 - (1) Subsection (3) applies if—
 - (a) a registrar to whom a notice of proposed civil partnership has been given under section 9 of the Civil Partnership Act 2011 (an Act of Tynwald), or
 - (b) any person who, under section 9 of that Act, has attested a declaration accompanying such a notice,has reasonable grounds for suspecting that the civil partnership will be a sham civil partnership.
 - (2) Subsection (3) also applies if—
 - (a) two people register as civil partners of each other under Part 2 of that Act in the presence of the registrar, and
 - (b) before, during or immediately after they do so, the registrar has reasonable grounds for suspecting that the civil partnership will be, or is, a sham civil partnership.
 - (3) The person concerned must report his suspicion to the Governor without delay and in such form and manner as may be prescribed by regulations.
 - (4) The regulations are to be made by the Clerk of the Rolls.
 - (5) “Sham civil partnership” means a civil partnership (whether or not void)—
 - (a) formed between a person (“A”) who is neither a British citizen nor a national of an EEA State other than the United Kingdom and another person (whether or not such a citizen or such a national), and
 - (b) formed by A for the purpose of avoiding the effect of one or more provisions of Isle of Man immigration law or the immigration rules.”; and
 - (b) in section 25(6A) (provision of facilities for immigration control at ports), for “Transport” substitute “Infrastructure”.
- 14.** In Part 5 (the Nationality, Immigration and Asylum Act 2002⁽¹⁰⁾), in section 133(4) (medical inspectors), omit “and Social Security”.

⁽⁸⁾ 1996 c. 49.
⁽⁹⁾ 1999 c. 33.
⁽¹⁰⁾ 2002 c. 41.

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15. In Part 6 (the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004⁽¹¹⁾)—
- (a) in section 19 (procedure for marriage)—
 - (i) omit subsection (3); and
 - (ii) in subsection (4)—
 - (aa) at the end of paragraph (a)(ii), insert “and”;
 - (bb) at the end of paragraph (b), omit the comma and insert a full-stop; and
 - (cc) omit paragraphs (c) and (d);
 - (b) in section 20 (procedure for marriage: supplemental)—
 - (i) in subsection (2), for “a declaration that” to the end substitute “a declaration that the notice of marriage is given in compliance with section 19(2) above.”; and
 - (ii) omit subsection (3);
 - (c) omit section 25 (application for permission under section 19(3)(b)); and
 - (d) in section 42(6A) (amount of fees), for “Trade and Industry” substitute “Economic Development”.
16. In Part 7 (the Immigration, Asylum and Nationality Act 2006⁽¹²⁾), before the heading “Claimants and applicants” insert—

“Passenger and crew information: police powers

- 32.—(1) This section applies to ships and aircraft which are —
- (a) arriving, or expected to arrive, in the Isle of Man, or
 - (b) leaving, or expected to leave, the Isle of Man.
- (2) The owner or agent of a ship or aircraft shall comply with any requirement imposed by a constable of the rank of superintendent or above to provide passenger or service information.
- (3) A passenger or member of crew shall provide to the owner or agent of a ship or aircraft any information that he requires for the purpose of complying with a requirement imposed by virtue of subsection (2).
- (4) A constable may impose a requirement under subsection (2) only if he thinks it necessary for police purposes.
- (5) In this section—
- (a) “passenger or service information” means information which is of a kind specified by order of the Governor and which relates to—
 - (i) passengers,
 - (ii) members of crew, or
 - (iii) a voyage or flight,
 - (b) “police purposes” means any of the following—
 - (i) the prevention, detection, investigation or prosecution of criminal offences;
 - (ii) safeguarding national security;
 - (iii) such other purposes as may be specified by order of the Governor;
 - (c) “constable” means an officer or member of the Isle of Man Constabulary.

⁽¹¹⁾ 2004 c. 19.

⁽¹²⁾ 2006 c. 13.

- (6) A requirement imposed under subsection (2)—
 - (a) must be in writing,
 - (b) may apply generally or only to one or more specified ships or aircraft,
 - (c) must specify a period, not exceeding six months and beginning with the date on which it is imposed, during which it has effect,
 - (d) must state—
 - (i) the information required, and
 - (ii) the date or time by which it is to be provided.
- (7) The Governor may make an order specifying a kind of information under subsection (5)(a) only if satisfied that the nature of the information is such that there are likely to be circumstances in which it can be required under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 2001 (an Act of Tynwald)).
- (8) An order under subsection (5)(a)—
 - (a) may apply generally or only to specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances, and
 - (c) may specify the form and manner in which information is to be provided.

Offence

34.—(1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under section 32(2) or (3).

(3) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to—

- (a) custody for a term not exceeding 6 months,
- (b) a fine not exceeding level 4 on the standard scale, or
- (c) both.

Duty to share information

36.—(1) This section applies to—

- (a) the Governor in so far as he has functions under the Immigration Acts,
- (b) the Chief Constable, and
- (c) the Treasury.

(2) The persons specified in subsection (1) shall share information to which subsection (4) applies and which is obtained or held by them in the course of their functions to the extent that the information is likely to be of use for—

- (a) immigration purposes,
- (b) police purposes, or
- (c) customs purposes.

(4) This subsection applies to information which—

- (a) is obtained or held in the exercise of a power specified by the Governor and the Treasury jointly by order and relates to—
 - (i) passengers on a ship or aircraft,
 - (ii) crew of a ship or aircraft,

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- (iii) freight on a ship or aircraft, or
 - (iv) flights or voyages, or
 - (b) relates to such other matters in respect of travel or freight as the Governor and the Treasury may jointly specify by order.
- (5) The Governor and the Treasury may make an order under subsection (4) which has the effect of requiring information to be shared only if satisfied that—
 - (a) the sharing is likely to be of use for—
 - (i) immigration purposes,
 - (ii) police purposes, or
 - (iii) customs purposes, and
 - (b) the nature of the information is such that there are likely to be circumstances in which it can be shared under subsection (2) without breaching Convention rights (within the meaning of the Human Rights Act 2001 (an Act of Tynwald)).
- (6) Information shared in accordance with subsection (2)—
 - (a) shall be made available to each of the persons specified in subsection (1), and
 - (b) may be used for immigration purposes, police purposes or customs purposes (regardless of its source).
- (9) In this section—
 - “customs purposes” means any of the Treasury’s functions in relation to —
 - (a) the prevention, detection, investigation or prosecution of criminal offences under the Acts specified in subsection (9A);
 - (b) the prevention, detection or investigation of conduct in respect of which penalties which are not criminal penalties are provided for by or under any of those Acts;
 - (c) the assessment or determination of penalties under those Acts which are not criminal penalties;
 - (d) checking the accuracy of information relating to, or provided for purposes connected with, any matter which by virtue of any of those Acts is under the care and management of the Treasury or any assigned matter (as defined by section 184 of the Customs and Excise Management Act 1986 (an Act of Tynwald));
 - (e) amending or supplementing any such information (where appropriate);
 - (f) legal or other proceedings relating to anything mentioned in paragraphs (a) to (e);
 - (g) safeguarding national security; and
 - (h) such other purposes as may be specified in an order made by the Governor;
 - “immigration purposes” means any of the following—
 - (a) the administration of immigration control under the Immigration Acts;
 - (b) the prevention, detection, investigation or prosecution of criminal offences under those Acts;
 - (c) the imposition of penalties or charges under Part II of the Immigration and Asylum Act 1999;
 - (d) such other purposes as may be specified in an order made by the Governor; and

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“police purposes” has the same meaning as in section 32.

(9A) The Acts referred to in the definition of “customs matters” in subsection (9) are—

- (a) the customs and excise Acts (as defined by section 184 of the Customs and Excise Management Act 1986 (an Act of Tynwald)), and
- (b) the Value Added Tax Act 1996 (an Act of Tynwald).

(10) This section has effect despite any restriction on the purposes for which information may be disclosed or used.

Information sharing: code of practice

37.—(1) The Governor and the Treasury shall jointly issue one or more codes of practice about—

- (a) the use of information shared in accordance with section 36(2), and
- (b) the extent to which, or form or manner in which, shared information is to be made available in accordance with section 36(6).

(2) A code—

- (a) shall not be issued unless a draft has been laid before Tynwald, and
- (b) shall come into force in accordance with provision made by order of the Governor and the Treasury jointly.

(3) The Governor and the Treasury shall jointly from time to time review a code and may revise and re-issue it following a review; and subsection (2) shall apply to a revised code.

Disclosure to law enforcement agencies

39.—(1) The Chief Constable may disclose information obtained in accordance with section 32 to—

- (a) the chief officer of police of a police force maintained under the Police Act 1996;
- (b) the chief constable of a police force maintained under the Police (Scotland) Act 1967;
- (c) the chief constable of the Police Service of Northern Ireland;
- (d) the States of Jersey police force;
- (e) the salaried police force of the Island of Guernsey;
- (f) any other foreign law enforcement agency.

(2) In subsection (1) “foreign law enforcement agency” means a person outside the Isle of Man with functions similar to functions of the Isle of Man Constabulary.”.