

**EXPLANATORY MEMORANDUM TO**  
**THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 (DATA**  
**SHARING CODE OF PRACTICE) (REVOCATION) ORDER 2007**

**2007 No. 3447**

1. This Explanatory Memorandum has been prepared by the Home Office and the Treasury and is laid before Parliament by Command of Her Majesty.

This Memorandum contains information for the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments.

2. **Description**

2.1 The Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) (Revocation) Order 2007 revokes the Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2007 which was to bring into force the Code of Practice on the Management of Information Shared by the Border and Immigration Agency, Her Majesty's Revenue and Customs and the Police on 31<sup>st</sup> December 2007.

3. **Matters of special interest to the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments**

3.1 This Order revokes the Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2007 on the day on which it was due to come into force. This is due to a decision taken by the Secretary of State to postpone the commencement of e-Borders legislation from 31<sup>st</sup> December 2007 to early 2008. This Order is being issued free of charge. (The Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2007 is associated with this Order and was withdrawn from Parliament before it was debated for the same reason.)

4. **Legislative Background**

4.1 The Immigration and Asylum Act 2006 ("2006 Act") received Royal Assent on 30th March 2006.

4.2 Section 36 of the 2006 Act introduced a requirement for the Secretary of State (in so far as she has functions under the Immigration Acts), Her Majesty's Revenue and Customs and a chief officer of police ("the border agencies") to share passenger, crew, freight, service and other travel related information where the information is likely to be of use for immigration, police or Revenue and Customs purposes. However, the duty on a chief officer of police in Scotland is to share information only to the extent to which it is likely to be of use for immigration purposes, police purposes in so far as they are or relate to reserved matters (within the meaning of the Scotland Act 1998) or Revenue and Customs purposes other than the prosecution of crime.

4.3 Section 37 of the 2006 Act created a requirement for the Secretary of State and the Treasury to issue jointly one or more codes of practice about the use of information shared in accordance with section 36(2) of that Act and the extent to which, or form and manner in which, shared information is to be made available in accordance with section 36(6) of that Act. That code was to be laid before Parliament on 26<sup>th</sup> November and brought into force on 31<sup>st</sup> December 2007 by the Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2007. That code was not laid before Parliament and this Order revokes the Order that was to bring it into force.

## **5. Territorial Extent and Application**

5.1 These instruments apply to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) (Revocation) Order 2007 is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 A key element of delivering closer working between the border agencies is ensuring that information about people and freight crossing the border is captured efficiently by the agencies and shared between them effectively. This will increase their ability to identify individuals who present a threat to the UK and to mount an appropriate, coordinated and proportionate response, whilst facilitating the free flow of low risk individuals through the UK's border controls.

7.2 To this end, the Border and Immigration Agency, in partnership with the police and HM Revenue and Customs and UKvisas will implement a specific system to support the electronic collection and bulk sharing of passenger and crew information under the e-Borders programme. (The Secretary of State obtains and holds information in the course of his functions under the Immigration Acts through both the Border and Immigration Agency and UKvisas.)

7.3 Beyond the capabilities to be introduced by e-Borders, the border agencies are engaged in other joint working in pursuit of their shared aim of securing the border. The ability to share information more freely about people and freight crossing the border will greatly enhance the operational effectiveness of this joint working.

7.4 To underpin the required data sharing by the agencies in the short, medium and longer term under e-Borders and other joint working arrangements, the 2006 Act introduced powers and supplemented existing powers to allow for the acquisition of bulk passenger, crew, freight and service information in advance of travel and also introduced an obligation for the data to be routinely shared between the border agencies.

7.5 The Secretary of State and the Treasury will jointly issue a code of practice under section 37 of the 2006 Act to regulate the handling and sharing of data under section 36 of that Act. The code of practice was to be laid before Parliament on 26<sup>th</sup> November and brought into force on 31<sup>st</sup> December by the Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2007. The Code was not laid before Parliament due to a decision to postpone e-Borders legislation until early 2008 and this Order revokes the Order which was to bring it into force.

## **8. Impact**

8.1 A Regulatory Impact Assessment was prepared for the 2006 Act. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies and the cost impact to the public sector is minimal.

## **9. Contact**

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can answer any queries regarding the instrument.