

2009 No. 2575

IDENTITY CARDS

The Identity Cards Act 2006 (Provision of Information with Consent) Regulations 2009

<i>Made</i>	- - - -	<i>23rd September 2009</i>
<i>Laid before Parliament</i>		<i>25th September 2009</i>
<i>Coming into force</i>	- -	<i>20th October 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 12(6)(a), (7)(a) and (b), 40(4) and (7) and 42(1)(a) of the Identity Cards Act 2006**(b)**.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Identity Cards Act 2006 (Provision of Information with Consent) Regulations 2009 and shall come into force on 20 October 2009.

(2) In these Regulations—

“aerodrome” has the meaning given to it section 38(1) of the Aviation and Security Act 1982**(c)**;

“airside pass” means a pass allowing the person to whom it has been issued unaccompanied access to a restricted zone or part of a restricted zone

“another person” means a person other than the individual to whom the record on the National Identity Register relates.

“the Commissioner” means the National Identity Scheme Commissioner;

“consent” means consent which is freely given by the individual to the provision on a particular occasion of information for the purposes of section 12(1) of the 2006 Act;

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

“information” means information recorded in the individual’s entry in the Register;

“grant of approval” means approval given in writing by the Secretary of State for the purposes of section 12 of the 2006 Act and a reference to being approved shall be construed accordingly;

“Passport validation service” means the service of the provision of information to an organisation that has entered into an agreement with the Identity and Passport Service to be provided with information confirming passport records; and

“the 2006 Act” means the Identity Cards Act 2006.

(a) See definition of “prescribed”.
(b) 2006 c. 15.
(c) 1982 c. 36

Provision of consent

2.—(1) An individual may give authority or consent by signing a document which indicates that authority or consent has been given, provided that the document explains the effect of doing so and in particular the matters set out in paragraph (2).

(2) The matters referred to in paragraph (1) are—

- (a) the information which the individual is consenting to the Secretary of State providing under section 12(1) of the 2006 Act;
- (b) to whom it would be provided under that section;
- (c) the purpose for which it would be provided to that person; and
- (d) how the individual can withdraw their consent.

(3) In the case of an application made by a person listed in regulation 3(a),(b) or (c) an individual may also give consent by providing their identity card after having been informed, whether verbally or in writing, of the matters listed in regulation 2(2).

3. For the purposes of section 12(1)(a) and (b) and 12(6) of the 2006 Act, the following persons may make an application—

- (a) a government department;
- (b) an aerodrome manager; and
- (c) a public authority specified in an Order made under section 20(1)(c) of the 2006 Act,

provided the Secretary of State has for the time being made a grant of approval in respect of that person.

Validation of identity card details

4.—(1) A person who is accredited by the Identity and Passport Service to be provided with information from passport records under the Passport Validation Service may make an application with consent where an individual has given consent by providing that person with written consent to check the validity of any identification document provided to prove their identity.

(2) The only information that can be provided from the Register under this regulation is a confirmation that details held on the Register match those supplied by the person making the application.

Conditions for the provision of information to another person

5. The provision of information to another person under section 12 of the 2006 Act is subject to the following conditions—

- (a) that the person has registered the particulars prescribed in regulation 6 with the Secretary of State; and
- (b) that the person and the applicant (where different) are for the time being approved by the Secretary of State in writing.

Prescribed particulars

6. The particulars prescribed for the purposes of regulation 5(a) are—

- (a) the name of the person to whom the information is to be provided;
- (b) the name of the person (P) who is to be the point of contact about administrative matters relating to the provision of information to the person under section 12 of the 2006 Act; and
- (c) P's—
 - (i) address;
 - (ii) email; and

- (iii) telephone number.

Grant of approval conditions

7.—(1) A grant of approval in respect of a person is subject to that person being able, subject to being approved, to make an application in accordance with regulation 3.

(2) A grant of approval in respect of a person to whom information is to be provided is also subject to that person satisfying the Secretary of State that the person will—

- (a) where appropriate, carry out the activities set out in paragraph (3); and
 - (b) only use information which has been provided to that person under section 12 of the 2006 Act for the purposes for which the individual has consented to that person being provided with the information for.
- (3) The activities referred to in paragraph (2)(b)(i) are—
- (a) monitoring whether the activities set out in sub-paragraphs (b) to [(i)] are being carried out;
 - (b) making a record of—
 - (i) who requested the information under section 12 of the 2006 Act;
 - (ii) the date and time of the request;
 - (iii) the information which was provided pursuant to the request,and retain that record for 12 months from the date the request was made, unless the Commissioner and the Secretary of State are satisfied that the record no longer needs to be retained;
 - (c) retaining the document referred to in Regulation 2 for 28 days, unless that document is retained as part of the record referred to in Regulation 6(3)(b), in which case the record must be retained in line with that regulation.
 - (d) providing the Commissioner or the Commissioner's staff, if requested by either of them, with all such information as they may reasonably require for the purpose of carrying out the Commissioner's functions insofar as they relate to—
 - (i) the arrangements made by the person for obtaining information under section 12 of the 2006 Act and for recording and using it, and
 - (ii) the person's use of ID cards;
 - (e) informing the Secretary of State if that person, or anyone acting on that person's behalf, has reasonable grounds for suspecting that an individual has committed or is attempting to commit an offence relating to the Register or an identity document;
 - (f) co-operating with any investigations by the Secretary of State into suspected fraudulent activity relating to the Register or an identity document;
 - (g) reporting promptly any failures or suspected failures to carry out the activities set out in sub-paragraphs (a) to (f) to the Secretary of State
 - (h) reporting promptly any non-compliance, or suspected non-compliance, with the terms of any agreement or Memorandum of Understanding with the Secretary of State regarding the disclosure of information to that person under the 2006 Act to the Secretary of State;
 - (i) assisting the Secretary of State, insofar as is reasonably practicable, in order that the Secretary of State can be satisfied that the activities set out in sub-paragraphs (a) to (h) are being carried out.

Suspension or withdrawal of an approval

8.—(1) A grant of approval may be suspended pending further investigation or withdrawn if the Secretary of State is satisfied that the person to whom the information would be provided under section 12 of the 2006 Act—

- (a) has not carried out the activities set out in regulation 6(3);
 - (b) will not carry out such activities;
 - (c) has used information which has been provided to that person under section 12 of the 2006 Act for a purpose other than that for which the individual has consented to that person being provided with the information for;
 - (d) will use that information for such a purpose; or
 - (e) has not complied with the terms of any agreement or Memorandum of Understanding with the Secretary of State regarding the disclosure of information to that person under the 2006 Act.
- (2) A grant of approval in respect of a person will be withdrawn if—
- (a) the Secretary of State has provided that person with 28 days' notice of the intention to do so; or
 - (b) new information relating to that person has come to the Secretary of State's attention as a result of which the Secretary of State considers it appropriate to withdraw the grant of approval in respect of that person.

Home Office
23rd September 2009

Bill Brett
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Secretary of State may under section 12(1) of the Identity Cards Act 2006 (“the 2006 Act”) provide a person with information recorded in an individual’s entry in the Register if—

- (c) an application for the provision of the information to that person is made by or with the authority of that individual; or
- (d) that individual otherwise consents to the provision of that information to that person.

Regulation 2 provides that an individual may give consent to the provision of information from that individual’s entry in the Register under that section 12(1) of the 2006 Act on a particular occasion by signing a document which explains the effect of doing so.

Regulation 3 makes provision about who can make an application for the provision of information under section 12 of the 2006 Act.

Regulation 4 provides that an accredited person may make an application for information from passport records under the Passport Validation Service with the consent of an individual.

Regulation 5 imposes conditions which must be satisfied in order that the Secretary of State can provide information about an individual to another person under section 12 of the 2006 Act. These are that (a) the person to whom the information is to be provided has registered the particulars prescribed in regulation 5 and (ii) that that person and the applicant (where different) are for the time being approved by the Secretary of State in writing.

Regulation 6 prescribes the particulars that must be registered before information can be provided to another person under regulation 5.

Regulation 7(1) provides that a grant of approval in respect of a person to whom information is to be provided is subject to that person complying with the conditions set out in paragraph (2).

Regulation 8 makes provision about the suspension or withdrawal of a grant of approval.

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