

## SCHEDULE

### AMENDMENTS TO THE IMMIGRATION (ISLE OF MAN) ORDER 2008

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

**16.** In Part 7 (the Immigration, Asylum and Nationality Act 2006<sup>(1)</sup>), 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.

(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

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<sup>(1)</sup> 2006 c. 13.

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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,
  - (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

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- (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
  - “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—

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- (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.”.