

2022 No. 84

IMMIGRATION

POLICE

The Immigration and Police (Passenger, Crew and Service Information) (Amendment) Order 2022

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| <i>Made</i> - - - - | <i>27th January 2022</i> |
| <i>Laid before Parliament</i> | <i>1st February 2022</i> |
| <i>Coming into force</i> - - | <i>1st March 2022</i> |

The Secretary of State, in exercise of the powers conferred by paragraphs 27(2) and 27B(9), (9A) and (10) of Schedule 2 to the Immigration Act 1971(a) and section 32(5)(a) of the Immigration, Asylum and Nationality Act 2006(b), makes the following Order.

The Secretary of State is satisfied that the nature of the information specified in this Order for the purposes of section 32 of the Immigration, Asylum and Nationality Act 2006 is such that there are likely to be circumstances in which it can be required under that provision without breaching Convention rights (within the meaning of the Human Rights Act 1998(c)).

Citation, commencement and extent

1.—(1) This Order may be cited as the Immigration and Police (Passenger, Crew and Service Information) (Amendment) Order 2022.

(2) This Order comes into force on 1st March 2022.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

Amendments to the Immigration and Police (Passenger, Crew and Service Information) Order 2008

2.—(1) The Immigration and Police (Passenger, Crew and Service Information) Order 2008(d) is amended as follows.

(2) For the heading immediately before article 1, substitute “Citation and commencement”.

(a) 1971 c. 77. Paragraph 27 was amended by section 31(2) of the Immigration, Asylum and Nationality Act 2006 (c. 13) and paragraph 1(2) of Schedule 5 to the Counter-Terrorism and Security Act 2015 (c. 6). Paragraph 27B was inserted by section 18 of the Immigration and Asylum Act 1999 (c. 33) and was amended by section 31(3) of the Immigration, Asylum and Nationality Act 2006 and paragraph 1(3) of Schedule 5 to the Counter-Terrorism and Security Act 2015. Prospective amendments are made by section 16 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19).

(b) 2006 c. 13; section 32 was amended by paragraph 6 of Schedule 5 to the Counter-Terrorism and Security Act 2015. Prospective amendments are made by section 14 of, and Part 2 of Schedule 15 to, the Police and Justice Act 2006 (c. 48).

(c) 1998 c. 42. The requirement set out in the second recital reflects the terms of section 32(7) of the 2006 Act.

(d) S.I. 2008/5; amended by S.I. 2015/859, 2018/598 and 2019/742.

(3) Omit article 1(2).

(4) In article 3(4), for the words after “departure” substitute “, it is no longer possible for further passengers or crew to do so and authority has been sought and not refused under any scheme made pursuant to section 22(1) of the Counter-Terrorism and Security Act 2015.”.

(5) In article 5(2), for the words after “departure” substitute “, it is no longer possible for further passengers or crew to do so and authority has been sought and not refused under any scheme made pursuant to section 22(1) of the Counter-Terrorism and Security Act 2015.”.

(6) In article 5(4), for “Schedule 2” the first time that it appears, substitute “Schedule 4”.

(7) In article 6, for “Schedule 3” each time that it appears, substitute “Schedule 1”.

(8) In article 6(2), for the words after “departure” substitute “, it is no longer possible for further passengers or crew to do so and authority has been sought and not refused under any scheme made pursuant to section 22(1) of the Counter-Terrorism and Security Act 2015.”.

(9) For article 7, substitute—

“Form and manner in which passenger and service information to be provided: police

7.—(1) Paragraph (2) applies where a person is subject to a requirement under section 32(2) of the 2006 Act to provide any passenger or service information specified by article 6.

(2) The person must provide that information electronically using a secure method that is compatible with the technology used by the recipient of the information.

(3) In the circumstances described in paragraph (4), the person may provide the information in an alternative form and manner.

(4) The circumstances are that—

- (a) there has been a technical failure meaning that it is not possible for the owner or agent to provide the required information in accordance with paragraph (2);
- (b) the alternative form and manner provide an equivalent level of security in relation to the protection of personal data as the method referred to in paragraph (2); and
- (c) the intended recipient has consented to the provision of the information in the alternative form and manner.”.

(10) For the heading to Schedule 1, substitute “Information specified: immigration and police”.

(11) After paragraph 3(g) of Schedule 1, insert—

- “(ga) actual departure date, where different from the scheduled departure date;
- (gb) actual departure time, where different from the scheduled departure time;
- (gc) notice of any cancellation of the flight, voyage or international service;”.

(12) Omit Schedules 2 and 3.

(13) For the heading to Schedule 4, substitute “Information specified to extent known by carrier: immigration and police”.

(14) In paragraph 1(nn)(viii)(dd), omit the word “and”.

(15) In paragraph 1(oo) of Schedule 4, for “Schedule 3” substitute “Schedule 1”.

(16) After paragraph 1(oo) of Schedule 4, insert—

- “(pp) any other information as is collected in respect of any travel document held by the passenger in addition to the one to which paragraph 2(a) of Schedule 1 refers; and
- (qq) any other biographic information as is collected in machine-readable form from the passenger’s travel document or documents.”.

Damian Hinds
Minister of State
Home Office

27th January 2022

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Immigration and Police (Passenger, Crew and Service Information) Order 2008 (S.I. 2008/5) (“the 2008 Order”).

Article 2(3) removes the sunset provision in article 1(2) of the 2008 Order.

Article 2(4), (5) and (8) amends the point in time by which information sought must be provided to the time when all passengers and crew have boarded, no further passengers or crew can do so and any requirements to seek authority to carry under a scheme made pursuant to section 22(1) of the Counter-Terrorism and Security Act 2015 have been complied with (and authority to carry has not been refused).

Article 2(9) aligns the form and manner requirements for the provision of passenger and service information to the police for maritime and rail operators with that for aircraft operators.

Article 2(10) to (13) amends the Schedules to the 2008 Order to align the information that can be sought by police and immigration officers and includes the actual departure date and time of a service, where that differs from the scheduled date and time, along with notice of service cancellations, to the list of information that can be sought under Schedule 1. Schedules 2 and 3 are omitted and the headings to the two remaining Schedules are amended to make clear that they apply to both immigration officers and the police.

Article 2(6), (7) and (14) updates references to the newly omitted Schedules.

Article 2(15) inserts additional data requirements into the list of information that can be sought in respect of passenger and service information, namely details of any additional travel document held and any other biographic information collected in machine-readable form from travel documents.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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