

Draft Order laid before Parliament under sections 3(7), 9(8), 17(8), 20(3), 34(9) and 38(7) of the Identity Cards Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

**IDENTITY CARDS
PASSPORTS**

**The Identity Cards Act 2006 (Information and
Code of Practice on Penalties) Order 2009**

Made - - - - *******
Coming into force - - *******

The Secretary of State makes the following Order in exercise of the powers conferred by sections 3(6), 9(4) and (6), 17(3)(c)(1), 20(1)(2), 34(6) and 38(3)(e) and (5) of the Identity Cards Act 2006(3).

In accordance with section 34(5) of the Identity Cards Act 2006, before laying the draft code of practice under that section, the Secretary of State published the proposed code and consulted members of the public about the code.

In accordance with section 34(4) of the Identity Cards Act 2006, the Secretary of State has laid a draft of the code of practice before Parliament.

In accordance with sections 3(7), 9(8), 17(8), 20(3), 34(9) and 38(7) of the Identity Cards Act 2006, a draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009 and shall come into force on the day after the day on which it is made.

(2) In this Order –

“credit reference agency” means a person carrying on a business comprising the furnishing of information relevant to the financial standing of individuals, being information collected by the agency for that purpose; and

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

(1) Section 17(7) contains a limit on the enabling power in subsection (3).
(2) Section 20(2) contains a limit on the enabling power in subsection (1).
(3) 2006 c.15.

Amendment to Schedule 1

2. In paragraph 6 of Schedule 1 to the 2006 Act (information that may be recorded in the Register) after paragraph (g) insert—

“(ga) particulars of every person who has been named as a referee by the individual on an application for an ID card or a designated document, so far as those particulars were included on the application;”.

Specified persons for the purposes of section 9

3. The following persons are specified for the purposes of section 9 of the 2006 Act (power to require information for validating Register)—

- (a) the Department for Work and Pensions;
- (b) the Department for Transport;
- (c) the Foreign and Commonwealth Office;
- (d) the Department of the Environment (Northern Ireland);
- (e) Her Majesty’s Revenue and Customs;
- (f) the Registrar General for England and Wales;
- (g) the Registrar General for Scotland;
- (h) the Registrar General for Northern Ireland; and
- (i) any credit reference agency which, at the time when the particular requirement is imposed under section 9 of the 2006 Act, is a party to a contract for the supply of information for the purposes of the carrying out by the Secretary of State of functions under that Act.

Revocation

4. The Verification of Information in Passports Applications Etc. (Specified Persons) Order 2007(4) is revoked.

Specified persons for the purposes of section 38

5. The following persons are specified for the purposes of section 38 of the 2006 Act (verifying information provided in passport applications etc.)—

- (a) the Registrar General for England and Wales;
- (b) the Registrar General for Scotland;
- (c) the Registrar General for Northern Ireland; and
- (d) any credit reference agency which, at the time when the particular requirement is imposed under section 38 of the 2006 Act, is a party to a contract for the supply of information for the purposes of the carrying out by the Secretary of State of functions under that Act.

Person to whom the duty is owed

6.—(1) The duty which is imposed by section 9(3) of the 2006 Act on a person specified in article 3 on whom a requirement to provide information is imposed, is owed to the person imposing the requirement.

(2) The duty which is imposed by section 38(2) of the 2006 Act on a person specified in article 5 on whom a requirement to provide information is imposed, is owed to the person imposing the requirement.

Enforcement of the duty

7. A duty referred to in article 6 is enforceable in civil proceedings—
- (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988⁽⁵⁾; or
 - (c) for any other appropriate remedy or relief.

Provision of information to a chief officer of police

8. Purposes connected with identifying victims of an event which has caused loss of human life or human illness or injury, are specified under section 17(3)(c) of the 2006 Act.

Provision of information to specified public authorities

9.—(1) The following public authorities are specified under section 20(1)(c) of the 2006 Act (power to authorise provision of information in other circumstances)—

- (a) the Security Industry Authority; and
- (b) the Scottish Crime and Drug Enforcement Agency.

(2) In respect of the Security Industry Authority—

- (a) information of a description set out in paragraph (3); and
- (b) purposes connected with the carrying out of that Authority's functions under section 1(2)(a) to (d) of the Private Security Act 2001⁽⁶⁾,

are specified under section 20(1)(b) and (d) of the 2006 Act.

(3) The description of information referred to in paragraph (2)(a) is information recorded in an entry in the Register of an individual (P) which is—

- (a) any name by which P is or has been known;
- (b) P's date of birth;
- (c) any addresses where P has a place of residence;
- (d) the number of any ID card issued to P;
- (e) a photograph of P's head and shoulders (showing the features of the face);
- (f) P's signature;
- (g) particulars of every person who has countersigned, or been named as a referee in connection with, P's application for an ID card or a designated document, so far as those particulars were included on the application; and
- (h) information provided in connection with an application by P to be entered in the Register, for a modification of the contents of P's entry or for the issue of an ID card, so far as that information relates to places where P claims to have resided.

(4) Subject to paragraph (5), in respect of the Scottish Crime and Drug Enforcement Agency—

(5) 1988 c.36
(6) 2001 c. 12.

- (a) information, the inclusion of which in an individual’s entry in the Register is authorised by Schedule 1 to the 2006 Act; and
 - (b) purposes connected with carrying out that Agency’s functions under section 2(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006(7),
- are specified under section 20(1)(b) and (d) of the 2006 Act.
- (5) Information referred to in paragraph (4)(a) does not include information falling within paragraph 9 of Schedule 1 to the 2006 Act.

Coming into force of the code of practice

10. The code of practice entitled “The Identity Cards Act 2006, Code of Practice on Civil Penalties”, laid before Parliament in draft on 6 May 2009 under section 34 of the 2006 Act, relating to the imposition of civil penalties, shall come into force on the day this Order comes into force.

Home Office
Date

Name
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Identity Cards Act 2006 (“the 2006 Act”) by inserting a new paragraph 6(ga) so as to enable the Secretary of State, in accordance with section 3 of the 2006 Act, to record in an individual’s entry in the Register particulars of persons who act as a referee in respect of an application for an ID card or a designated document.

It also revokes the Verification of Information in Passports Applications Etc. (Specified Persons) Order 2007, which was made under section 38 of the 2006 Act and specifies the persons listed (a) in Article 3 for the purposes of section 9 of the 2006 Act and (b) in Article 5 for the purposes of section 38 of that Act.

The effect of specifying persons under those sections is that a requirement to provide information may be imposed on those persons under those sections.

Sections 9(3) and 38(2) of the 2006 Act place a duty on a person who is required under those sections to provide information and who has the information in his possession to comply with the requirement. Article 6 provides that the duty is owed to the person imposing the requirement and Article 7 provides for the means of enforcement of the duty.

Section 17(3) of the 2006 Act authorises the provision of information not falling within paragraph 9 of Schedule 1 to that Act where the information is provided to a chief officer of police (a) in the interests of national security and (b) for purposes connected with the prevention or detection of crime. Article 8 specifies another purpose for which such information may be provided to a chief office of police, namely for purposes connected with identifying victims of an event which has caused loss of human life or human illness or injury.

Article 9 specifies for the purposes of section 20(1) of the 2006 Act (a) the Security Industry Authority, (b) the information which is listed in paragraph (3) and (c) purposes connected with the carrying out of that Authority’s functions under section 1(2)(a) to (d) of the Private Security Act 2001.

Article 9 also specifies for the purposes of section 20(1) of the 2006 Act (a) the Scottish Crime and Drug Enforcement Agency, (b) information, other than that which falls under paragraph 9 of Schedule 1 to the 2006 Act, which may be recorded in an individual’s entry in the Register and (c) purposes connected with the carrying out of that Agency’s functions under section 2(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006.

The effect of doing so is that in a case where there is no authorisation under any of sections 17 to 19 of the 2006 Act, the Secretary of State may nevertheless, without the individual’s consent, provide those public authorities with the specified information for the purposes specified in respect of that authority, provided there is compliance with any requirements imposed by or under section 21 of that Act in relation to the provision of the information.

Article 10 provides for the coming into force of the code of practice issued under section 34 of the 2006 Act.