EXPLANATORY MEMORANDUM TO

THE VERIFICATION OF INFORMATION IN PASSPORT APPLICATIONS ETC. (SPECIFIED PERSONS) ORDER 2007

2007 No.

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The Order under section 38 of the Identity Cards Act 2006 adds the Registrar General for England and Wales and a credit reference agency with which the Identity and Passport Service has a contract for the provision of identity information, to the list of bodies, listed in section 38(3), from which the Identity and Passport Service may require information to verify information provided with, or in connection with, passport applications or when determining whether to withdraw a passport..

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

3.1 None

4. **Legislative Background**

4.1 Section 38 of the Identity Cards Act 2006 gives explicit powers to the Secretary of State to require organisations (legal persons) to check their own records and to provide any information to the Identity and Passport Service which could be used to verify the accuracy of details supplied in, or in connection with, a passport application or in order to determine whether to withdraw a passport. Section 38 subsection (3)(a) to (d) lists the categories of organisation that may be required to provide information as: -

- a Minister of the Crown;
- a government department;
- a Northern Ireland department;
- the National Assembly for Wales;

4.2 In addition, Section 38, subsection (3)(e) provides that any legal persons or organisation may be included in such a requirement once they have been specified in an order under this section of the Identity Cards Act. This is the first such order. A requirement to provide information under section 38 (in connection with a passport application or a decision to withdraw a passport) would ensure that it is lawful for the organisation concerned to provide the requisite information, including making it lawful to provide any personal data in accordance with the Data Protection Act 1998.

4.3 During House of Lords Committee consideration of the Identity Cards Bill, Section 38 (then Clause 39) was discussed in connection with Section 9 (then Clause 11), which makes similar provision for validation of entries on the National Identity Register. The Home Office Minister of State, Baroness Scotland, defended the future inclusion of credit reference agencies in an order under Clause 11, remarking that "the UK Passport Service already checks credit reference data as part of its identity

verification process"(14th December 2006, Hansard col. 1275). In response to an amendment relating to Clause 39(3)(e), she said: "Our view is that further and other agencies need to be consulted in relation to checking essential details, in particular to ensure that the footprint that gets entered on the register is absolutely right. Clauses 11 and 39 are drafted differently because the passport service is already operating and making these checks, but the people who may be specified are the same.'

5. Extent

5.1 This instrument applies to all of the United Kingdom and will therefore apply to passport applications made from any part of the United Kingdom.

6. European Convention on Human Rights

6.1 The Home Office Parliamentary Under-Secretary of State, Joan Ryan MP has made the following statement regarding Human Rights:

> "In my view the provisions of the Verification of Information in Passport Applications etc. (Specified Persons) Order 2007 are compatible with the Convention rights".

7. Policy Background

Policy

7.1 The Cabinet Office study on Identity Fraud, published in July 2002 (see: http://www.identitycards.gov.uk/downloads/id_fraud-report.pdf), recommended the greater use of biographical checks to confirm identity in passport applications. This was in line with the Cabinet Office report "Privacy and Data Sharing – the way forward for public services", published in April 2002 (see: http://www.cabinetoffice.gov.uk/strategy/downloads/su/privacy/downloads/piu-data.pdf) which made recommendations that the Government should pursue twin objectives of enhancing privacy and making better use of personal data to deliver smarter public services. In particular, it recommended that access to data held on public and private sector databases would provide better authentication of an individual's history in a more robust and cost-effective way than present methods.

7.2 Section 38 of the Identity Cards Act 2006 enables background information to be required in order to verify the identity of passport applicants. This will help improve the security and reliability of the passport issuing process in advance of the introduction of similar provisions in section 9 of the Identity Cards Act to require information for the validation of applications for identity cards.

7.3 Under subsection 38(3) of the Identity Cards Act it is already possible to require information from other parts of government (a Minister of the Crown, a government department, a Northern Ireland department or the National Assembly for Wales). This would include for example information held about a person's identity by the Department of Work and Pensions or the Driver and Vehicle Licensing Agency. The order-making power in subsection 38(3)(e) allows the addition of further bodies where necessary.

7.4 The use of this order to include the Registrar General for England and Wales is because she has a separate statutory office under the Registration Services Act 1953 and is responsible for the General Register Office (GRO) for England and Wales. The

GRO for England and Wales is therefore not a government department and so the addition of the Registrar to the list in section 38 will clarify the fact that the Identity and Passport Service may require any relevant information to be provided by the GRO so as to enable secure checking of birth and marriage information supplied by passport applicants on a routine basis. This is key biographical data which may have relevance to an individual's entitlement to a passport as well as to the authenticity of the identity being claimed. Some information is already provided by the GRO to assist with specific fraud investigations or to guard against identity fraud using the identity of a person who died in childhood. However, the Order will allow for a much wider range of information to be provided.

7.5 It is not necessary to add GRO (Northern Ireland), as this is a branch of the Northern Ireland Statistics and Research Agency, which is part of the Department of Finance and Personnel for Northern Ireland and as such would be covered already under section 38(3)(c). GRO (Scotland) was given powers in the Local Electoral Administration and Registration Services (Scotland) Act 2006 to provide information to other public bodies or office-holders and to charge for this service where necessary. It therefore does not need to be included in this order.

7.6 Better biographical checks using the powers in section 38 will be available for any passport applications but will be of particular benefit as part of the passport interview process, which is being introduced by the Identity and Passport Service (IPS) for first time passport applicants and has been piloted from May 2007. The full roll out of passport interviews will begin in August 2007 so that eventually all adults making a first time application for a passport may be required to attend an interview. When an individual applies for a passport, biographical information will be sought, for example from the GRO to confirm details of birth or marriage or from the current credit reference agency contractor in order to check any records of previous address. Such information can then be checked with an individual at the interview as part of the process of ensuring that the person applying for the passport is the same person having the identity claimed and that it is a real identity. Section 38 clarifies that such checks on personal data may be made without having to obtain individual consent from each passport applicant.

7.7 Limited verification of an applicant's address based on information provided by a credit reference agency has already been introduced from 2006 as part of the passport application process as a fraud prevention measure. However the roll out of passport interviews will extend the need for checking biographical information to ensure that the identity claimed on the application is real, living, and can be linked to the customer through cross checks against a range of public sector databases and with checks against identity information held by the credit reference agency (Equifax plc) with which the Identity and Passport Service currently has a contract. It will <u>not</u> cover irrelevant information such as details of an individual's credit rating or financial circumstances but rather information directly related to the applicant's identity or information that might be used to confirm at interview that they are the same person. This could include information such as the name of the company from which an individual holds a mortgage or the bank with which he or she has an account. It could also include information in connection with the application to help identify a third party such as the parents of an applicant or the countersignatory. However, once it has been established that the applicant is genuine, then any information which has been used simply to confirm identity and is not the identity information itself, such as the applicant's name address nationality date of birth etc., will be destroyed. The Identity

and Passport Service staff employed to conduct the interviews will be fully vetted and strict procedures will be followed.

Consultation

7.8 Consultation on the content of the Order has been carried out with the General Register Office (England and Wales) and with Equifax plc, the credit reference agency with which the Identity and Passport Service currently has a contract. These are the two organisations that will be affected by the order on its implementation. If a future contract is let with another credit reference agency, as an information provider for the Identity and Passport Service, then the Order will be drawn to that organisation's attention.

7.9 The Information Commissioner's Office has also been consulted over the form of the Order as one of the purposes of the Order is to put beyond doubt that it is lawful for the organisations named in the Order to provide personal information to the Identity and Passport Service which will enable compliance with the Data Protection Act 1998. At the suggestion of the Information Commissioner's Office, the scope of the Order has also been limited to only a credit reference agency with which the Identity and Passport Service has a contract, rather than to any credit reference agency.

Sanctions

7.10 The Order provides that the duty to provide information imposed by the Order on the Registrar General for England and Wales and a credit reference agency with which the Identity and Passport Service has a contract is enforceable through the courts in civil proceedings.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies in general. Furthermore, this instrument will not place any undue burden on credit reference agencies, as the Identity and Passport Service will provide payment for the service provided and only a credit reference agency which has secured a contract to provide information to the Identity and Passport Service will be required to provide information under the Order.

8.2 The impact on the public sector will also be minimal as the Order will affect only the General Register Office for England and Wales. The Order will be beneficial in protecting the public by helping to increase the security and reliability of the passport issuing process.

9. Contact

9.1 Robin Woodland in the Home Office, Identity and Passport Service (telephone 020 7035 3312 or email Robin.Woodland@ips.gsi.gov.uk) can answer any queries regarding the instrument.