EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND POLICE (PASSENGER, CREW AND SERVICE INFORMATION) (AMENDMENT) ORDER 2015

2015 No. 859

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

2. Purpose of the instrument

2.1 This instrument amends the Immigration and Police (Passenger, Crew and Service Information) Order 2008 ("the 2008 Order"), which relates to the acquisition of data in respect of passengers, crew and services entering and leaving the UK. The purpose of the amendment is to require carriers to provide passenger, crew and service information in a format compatible with the Secretary of State's technology, enabling faster communication between the carrier and the immigration officer and to ensure that adequate information is provided for crew to allow advance checks to be carried out.

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

3.1 None

4. Legislative Context

4.1 The amendments made by this instrument will provide a legal requirement on carriers to provide passenger, crew and service information in a format compatible with the Secretary of State's technology when required to do so in writing. This will allow for faster communication between the carrier and the immigration officer. The amendment will complement the Authority to Carry Scheme 2015 by allowing the immigration officer to communicate whether a passenger can be carried prior to departure.

4.2 Section 22 of the Counter-Terrorism and Security Act 2015 ("the 2015 Act") extends the potential scope of any Authority to Carry Scheme. The Authority to Carry Scheme 2015 covers a broader range of individuals who are subject to restrictions on travel. In particular, the new Scheme captures outbound travel and those passengers with a right of abode in the UK who are subject to a temporary exclusion order under Part 1 of the 2015 Act. The provisions in this instrument that replace article 4 of the 2008 Order ensure instructions on whether a passenger can be boarded or not are received in time and in a compatible format.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 In August 2014 the Independent Joint Terrorism Analysis Centre raised the UK national terrorist threat level from SUBSTANTIAL to SEVERE meaning that a terrorist attack is 'highly likely'. On 1 September 2014 the Prime Minister announced that legislation would be brought forward in a number of areas to stop people travelling overseas to fight for terrorist organisations and subsequently returning to the UK as well as to deal with those already in the UK who pose a risk to the public.

7.2 Obtaining complete, timely and accurate passenger, crew and service information in advance of travel allows immigration officers to carry out checks before a passenger departs, which can help allow for appropriate action by law enforcement prior to entry to or exit from the UK. To assist in early intervention, carriers need adequate systems in place to receive and send communications about passenger lists and service information and to provide that information in a prescribed manner.

7.3 Under existing law, crew members can enter the UK using an internationally recognised document other than a passport such as a pilot's licence, crew member certificate or a seafarers certificate. It is important that sufficient information is still provided to allow adequate checks to be carried out. This instrument amends the 2008 Order to make it clear that someone who does not hold a travel document must still provide details of their full name, gender, date of birth, nationality and the type, number, expiry date and issuing State of the identification relied upon.

- ***Consolidation***

7.4 As the amendments made to the 2008 Order by this instrument are relatively limited, the Department does not consider that consolidation would be appropriate in this instance.

8. Consultation outcome

8.1 Following engagement with the airline and maritime industries at the pre-consultation stage of the Counter-Terrorism and Security Bill, a targeted industry consultation exercise ended on 16 February 2015. The consultation covered the implementation of secondary legislation in relation to Part 4 of the Counter-Terrorism and

Security Bill including provision for receiving information granting or refusing authority to carry in a way which is compatible with the Government's Border Systems.

8.2 Twenty-eight responses were received. Eight respondents welcomed the idea of providing passenger information interactively and saw it as a way of enhancing the level of security provided as well as being the most efficient way to prevent unauthorised passage. Ten respondents stressed that interactive Advance Passenger Information needs to comply with industry standards.

9. Guidance

9.1 Border Force engages with the carriers and ports industry on a regular basis. Consultation will take place with a carrier prior to amendments to existing written requirements.

10. Impact

10.1 A number of airlines already provide Advance Passenger Information interactively. Carriers are responsible for ensuring their systems are compatible with the technology used by the Secretary of State. However, the UK is working to international standards, which will assist in keeping implementation costs to a minimum.

10.2 Impacts on the public sector will be delivered from within existing resource allocations.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The introduction of this instrument is intended to assist the UK Government to better regulate the complete, accurate and timely collection of passenger and crew information. Management Information will be collected and reviewed by the Home Office on an ongoing basis to ensure carriers meet these criteria and to inform future Impact Assessments that review this policy. The data will also be used to inform the ongoing engagement with the industry to ensure data quality for the law enforcement purposes described within this memorandum. Additionally, this instrument includes a provision with the effect that the 2008 Order (as amended) will cease to have effect seven years after this instrument comes into force.

13. Contact

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