



# Home Office Circular

**HOC 44 /2002**

**Date of Issue: 20 August 2002**

**THIS CIRCULAR IS ABOUT:**

**GUIDANCE FOR THE POLICE, HER MAJESTY'S CUSTOMS & EXCISE, THE IMMIGRATION SERVICE, THE AIR/SEA CARRIER INDUSTRY AND THE PUBLIC ON THE IMPLEMENTATION OF SCHEDULE 7 TO THE TERRORISM ACT 2000 (INFORMATION) ORDER 2002**

**FROM:**

**ORGANISED CRIME, DRUGS AND INTERNATIONAL GROUP (OCDIG)**

**IMPLEMENTATION DATE:**

**22 August 2002**

**EXPIRY DATE:**

**NONE UNTIL REPLACED**

**THIS CANCELS:**

**N/A**

**FOR MORE INFORMATION ON THE ORDER:**

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**THIS CIRCULAR IS ADDRESSED TO:**

**CHIEF OFFICERS OF POLICE (ENGLAND & WALES)  
CHIEF CONSTABLE POLICE SERVICE FOR  
NORTHERN IRELAND  
CHIEF CONSTABLES IN SCOTLAND  
CLERKS TO THE POLICE AUTHORITIES  
HER MAJESTY'S CUSTOMS AND EXCISE  
THE IMMIGRATION SERVICE**

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SCOTTISH POLICE COLLEGE  
SCOTTISH EXECUTIVE  
WELSH EXECUTIVE**

## Summary

1. The Schedule 7 to the Terrorism Act 2000 (Information) Order 2002 was made on 22 July 2002 and comes into force on 22 August 2002.
2. Under paragraph 17 of Schedule 7 to the Terrorism Act 2000, an examining officer may give owners or agents of a ship or aircraft a written request to provide specific information which may relate to a particular ship or aircraft, all ships or aircraft of the owner or agent, or to specified ship or aircraft. The owners or agents shall comply with the request as soon as is reasonable practicable.
3. For the purposes of this circular, 'Examining Officer' has the same meaning as in paragraph 1(1) of Schedule 7 to the Act ('the Schedule'), ie a constable, immigration officer or customs officer designated for the purpose of the Schedule by the Secretary of State and the Commissioners of Customs & Excise.
4. The purpose of the Schedule 7 to the Terrorism Act 2000 (Information) Order 2002 is to specify the kind of information which may be collected.
5. The purpose of this circular is to provide guidance on the initial exercise of the Order from 22 August 2002, when it comes into force.
6. This circular will be updated and replaced as the implementation of the legislation is developed and agreed.
7. A revised Code of Practice for Examining Officers will be issued.

## Implementation of Schedule 7 to the Terrorism Act 2000 (Information) Order 2002

8. The Order comes into force 30 days after it was made on 22 July 2002. The requirement to provide information to HM Customs and Excise and the Immigration Service under their own legal powers is not affected by this Order.
9. The Home Secretary, supported by David Veness: Assistant Commissioner Specialist Operations, has given an undertaking to the industry that there will be **no systematic attempt to exercise the power until further consultation has taken place** with all the stakeholders and guidance issued which supersedes that contained in this document. Beverley Hughes MP made a statement in Parliament that the power will be exercised proportionately and for counter-terrorism linked purposes.
10. The ongoing consultation process will explore and agree the capacity of the industry to collect and provide the specified information items and the timetable for the incremental phasing-in of this.
11. The consultation process will also explore how the requisite information might be made available to examining officers with minimum disruption to carrier processes.

## **Interim requests for information**

12. During the interim consultation period there may be circumstances of public emergency which make it vital that the examining officer be able to use these powers in a justifiable and proportionate way.
13. In these circumstances it is vital that they are able to do so whether or not the carrier routinely collects the information.
14. If the carrier does not collect the information, it can be gathered by whatever means possible, the most extreme example by handing out paper forms to be completed and collected.
15. If the carrier does collect the information or certain of the information, it is essential the examining officer be able to request access to that.

## **Information already available in the interim period**

16. **There will be no systematic attempt to exercise the power until further consultation has taken place.**
17. However, where a carrier already collects selected or all of the information requirements on the list and is in the position to provide it on request to the examining officer without detriment to their operation, that carrier may indicate this to examining officers.
18. This would be on a voluntary basis until the implementation of the Order has been agreed.
19. It needs to be emphasised that no carrier will ever have any obligation to collect information until required to do so under paragraph 17. For example, an air carrier might set up a system to enable to provide residential addresses of each passenger on their flights. A request might then be given to that carrier to obtain information on passengers to the US. However, there is no obligation on that carrier to obtain information on passengers travelling to destinations other than the one in the original request unless they need the information for their own business purposes.
20. It may be that the carrier would have the capacity and be willing to co-operate in the provision of information beyond the scope of any original request. However, it should be noted that such an action would not be ECHR compliant if there were no paragraph 17 request which covered that extension of information.

## **'Domestic' Carriers**

21. The term 'domestic' refers to those carriers –air or sea – whose operating routes are intra-Great Britain and/or intra-Northern Ireland.
22. It has been necessary to encompass this type of carrier in the requirements of the legislation because there may be circumstances under which information relating to domestic journeys and domestic carriers may be key to police intelligence.
23. The National Co-ordinator of Ports Policing made a public undertaking to domestic carriers that there should be **no systematic requirement** on them to collect and provide the information specified in the Order at any point of the implementation process.
24. There may be circumstances under which domestic carriers may be required to provide information but this should be restricted to the type of information currently collected by an individual carrier.
25. A request for such information would be made to the carrier in writing in negotiation with the immediate local agencies where appropriate and at a period of notice as appropriate.
26. Domestic carriers **should only be requested to provide information that is currently collected by them**. They are not required to make specific provision for the collection of information items as specified in the Order.

## **Codes of Practice**

27. Revised Codes of Practice will be produced and subject to consultation before the Order is implemented.

## **Recourse to Review**

28. The carriers have recourse to the independent reviewer of the powers under the Terrorism Act 2000, Lord Carlile of Berriew, QC should they have comment or complaint regarding the application of the powers.