



# Immigration Act 2014

## 2014 CHAPTER 22

### PART 1

#### REMOVAL AND OTHER POWERS

##### *Biometrics*

#### **14 Use and retention of biometric information**

(1) For section 8 of the UK Borders Act 2007 substitute—

##### **“8 Use and retention of biometric information**

- (1) The Secretary of State must by regulations make provision about the use and retention by the Secretary of State of biometric information provided in accordance with regulations under section 5(1).
- (2) The regulations must provide that biometric information may be retained only if the Secretary of State thinks that it is necessary to retain it for use in connection with—
  - (a) the exercise of a function by virtue of the Immigration Acts, or
  - (b) the exercise of a function in relation to nationality.
- (3) The regulations may include provision permitting biometric information retained by virtue of subsection (2) also to be used—
  - (a) in connection with the prevention, investigation or prosecution of an offence,
  - (b) for a purpose which appears to the Secretary of State to be required in order to protect national security,
  - (c) in connection with identifying persons who have died, or are suffering from illness or injury,

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*Status: This is the original version (as it was originally enacted).*

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- (d) for the purpose of ascertaining whether a person has acted unlawfully, or has obtained or sought anything to which the person is not legally entitled, and
  - (e) for such other purposes (whether in accordance with functions under an enactment or otherwise) as the regulations may specify.
- (4) The regulations must include provision about the destruction of biometric information.
- (5) In particular the regulations must require the Secretary of State to take all reasonable steps to ensure that biometric information is destroyed if the Secretary of State—
  - (a) no longer thinks that it is necessary to retain the information for use as mentioned in subsection (2), or
  - (b) is satisfied that the person to whom the information relates is a British citizen, or a Commonwealth citizen who has a right of abode in the United Kingdom as a result of section 2(1)(b) of the Immigration Act 1971.
- (6) The regulations must also—
  - (a) require that any requirement to destroy biometric information by virtue of the regulations also applies to copies of the information, and
  - (b) require the Secretary of State to take all reasonable steps to ensure—
    - (i) that data held in electronic form which relates to biometric information which has to be destroyed by virtue of the regulations is destroyed or erased, or
    - (ii) that access to such data is blocked.
- (7) But a requirement to destroy biometric information or data is not to apply if and in so far as the information or data is retained in accordance with and for the purposes of another power.
- (8) The regulations must include provision—
  - (a) entitling a person whose biometric information has to be destroyed by virtue of the regulations, on request, to a certificate issued by the Secretary of State to the effect that the Secretary of State has taken the steps required by virtue of subsection (6)(b), and
  - (b) requiring such a certificate to be issued within the period of 3 months beginning with the date on which the request for it is received by the Secretary of State.
- (9) Section 6(6) applies to regulations under this section as it applies to regulations under section 5(1).”
- (2) In the Immigration and Asylum Act 1999, after section 144 insert—

**“144A Use and retention of fingerprints etc.**

- (1) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to—
  - (a) fingerprints taken by virtue of section 141, and
  - (b) biometric information taken by virtue of regulations under section 144,

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as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act.

- (2) Regulations made by virtue of subsection (1)(a) must require fingerprints taken from a person (“F”) by virtue of section 141(7)(f) to be destroyed when fingerprints taken from the person whose dependant F is are destroyed.
  - (3) Regulations made by virtue of subsection (1)(b) must make equivalent provision in relation to biometric information taken by virtue of any provision of regulations under section 144 which is equivalent to section 141(7)(f).”
- (3) In section 126 of the Nationality, Immigration and Asylum Act 2002 (power to require provision of physical data with certain immigration applications), after subsection (8) insert—
- “(8A) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to biometric information provided in accordance with regulations under subsection (1) as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act.”