

STATUTORY INSTRUMENTS

2006 No. 1743

IMMIGRATION

The Immigration (Provision of Physical Data) Regulations 2006

Made - - - - *3rd July 2006*

Coming into force - - *4th July 2006*

^{M1}The Secretary of State makes the following Regulations in exercise of the powers conferred by section 126(1) of the Nationality, Immigration and Asylum Act 2002 .

In accordance with section 126(8)(b) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Modifications etc. (not altering text)

- C1** Regulations applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(4)**, 4(5), 12(1) (u)

Marginal Citations

- M1** 2002. c.41. Subsections (3) to (8) of section 126 concern the powers in subsection (1).

Citation, commencement and interpretation

1. These Regulations may be cited as the Immigration (Provision of Physical Data) Regulations 2006 and shall come into force on the day after they are made.

2. In these Regulations:

“application” means:

- (a) an application for entry clearance [^{F1}save for when the applicant is required to apply simultaneously for a biometric immigration document]; ^{F2}...
- (b) an application for leave to enter the United Kingdom where the person seeking leave to enter presents a Convention travel document endorsed with an entry clearance for that journey to the United Kingdom;
- (c) [^{F3}an application for a transit visa (meaning a visa issued to a person for the purpose of arriving in the United Kingdom in order to pass through to another country or territory without entering the United Kingdom); ^{F4}...

- (d) ^{F5} ...^{F6} ...
- (e) [^{F7}an application for leave to enter or remain in the United Kingdom made under Appendix EU to the immigration rules]^{F8}; ^{F9} ...
- (f) an application for a frontier worker permit under the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020;^{F10} or
- (g) an application for an electronic travel authorisation pursuant to immigration rules made by virtue of section 11C of the Immigration Act 1971;]

[^{F11}“biometric information” means photographs or fingerprints provided under regulation 3;]

“Convention travel document” means a travel document issued pursuant to Article 28 of the Refugee Convention, except where that travel document was issued by the United Kingdom Government;

[^{F12}“immigration rules” means rules [^{F13}laid down in accordance with] section 3(2) of the Immigration Act 1971;]

“Refugee Convention” means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol.

Textual Amendments

- F1** Words in reg. 2 inserted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **3(a)(i)**
- F2** Word in reg. 2 omitted (6.4.2015) by virtue of [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **3(a)(ii)**
- F3** Words in reg. 2 inserted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **3(a)(iii)**
- F4** Word in reg. 2 omitted (27.8.2018) by virtue of [The Immigration \(Provision of Physical Data\) \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/928\)](#), regs. 1(2), **2(2)(a)**
- F5** Words in reg. 2 omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **32(2)** (with reg. 32(5))
- F6** Word in reg. 2 omitted (4.11.2020) by virtue of [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2), **27(2)(a)**
- F7** Words in reg. 2 substituted (30.3.2019) by [The Immigration \(European Economic Area Nationals\) \(EU Exit\) Order 2019 \(S.I. 2019/686\)](#), arts. 1(3), **9**
- F8** Words in reg. 2 inserted (4.11.2020) by [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1213\)](#), regs. 1(2), **27(2)(b)**
- F9** Word in reg. 2 omitted (31.3.2023) by virtue of [The Immigration \(Electronic Travel Authorisations\) \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/305\)](#), regs. 1(b), **2(a)(i)**
- F10** Words in reg. 2 inserted (31.3.2023) by [The Immigration \(Electronic Travel Authorisations\) \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/305\)](#), regs. 1(b), **2(a)(ii)**
- F11** Words in reg. 2 inserted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **3(b)**
- F12** Words in reg. 2 inserted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **3(c)**
- F13** Words in reg. 2 substituted (31.3.2023) by [The Immigration \(Electronic Travel Authorisations\) \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/305\)](#), regs. 1(b), **2(b)**

Power for an authorised person to require an individual to provide a record of his fingerprints and a photograph of his face

3. Subject to regulations 4 and 5, an authorised person may require an individual who makes an application to provide a record of his fingerprints and a photograph of his face.

Provision in relation to applicants under the age of sixteen

4.—(1) An applicant under the age of sixteen shall not be required to provide a record of his fingerprints or a photograph of his face except where the authorised person is satisfied that the fingerprints or the photograph will be taken in the presence of a person aged eighteen or over who is—

- (a) the child's parent or guardian; or
- (b) a person who for the time being takes responsibility for the child.

(2) The person mentioned in paragraph (1)(b) may not be—

- (a) an officer of the Secretary of State who is not an authorised person;
- (b) an authorised person; or
- (c) any other person acting on behalf of an authorised person as part of a process specified under ^[F14]regulation 6].

(3) An authorised person shall not require a person under the age of sixteen to provide a record of his fingerprints or a photograph of his face unless his decision to do so has been confirmed by a person designated for the purpose by the Secretary of State.

(4) This regulation shall not apply if the authorised person reasonably believes that the applicant is aged sixteen or over.

Textual Amendments

F14 Words in reg. 4(2)(c) substituted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), 4

Provision in relation to section 141 of the Immigration and Asylum Act 1999

5. An applicant shall not be required to provide a record of his fingerprints or a photograph of his face under regulation 3 if he is a person to whom section 141 of the Immigration and Asylum Act 1999 ^{M2} applies, during the relevant period within the meaning of that section.

Marginal Citations

M2 1999. c.33.

^[F15]Process by which the applicant's fingerprints and photograph may be obtained and recorded

6.—(1) An authorised person who requires an individual to provide a record of the individual's fingerprints or a photograph of the individual's face under regulation 3 may do any one or more of the following—

- (a) require the individual to make an appointment before a specified date, which the individual must attend, to enable a record of the individual's fingerprints or a photograph of the

individual's face to be taken by an authorised person or by a person acting on behalf of an authorised person;

- (b) specify the date, time and place for the appointment;
- (c) require the individual to attend premises before a specified date to enable a record of the individual's fingerprints or a photograph of the individual's face to be taken by an authorised person or by a person acting on behalf of an authorised person; and
- (d) specify any documents which the individual must bring to the appointment or premises, or action which the individual must take to confirm the individual's identity.

(2) An authorised person may require a record of fingerprints or photograph to be of a particular specification.]

Textual Amendments

F15 Reg. 6 substituted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), 5

[^{F16}Documents recording biometric information

6A. Biometric information provided under these Regulations may be recorded on any document issued as a result of the application in relation to which the information was provided.]

Textual Amendments

F16 Reg. 6A inserted (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), 6

Consequences of failure to comply with these Regulations

7.—(1) Subject to paragraphs (2) and (3), where an individual does not provide a record of his fingerprints or a photograph of his face in accordance with a requirement imposed under these Regulations, his application may be treated as invalid.

(2) An application shall not be treated as invalid under paragraph (1) if it is for leave to enter the United Kingdom where the person seeking leave to enter presents a Convention travel document endorsed with an entry clearance for that journey to the United Kingdom.

(3) Where an application is of a type described in paragraph (2) and the applicant does not provide a record of his fingerprints or a photograph of his face in accordance with a requirement imposed under these Regulations, that application may be refused.

[^{F17}Use and retention of biometric information

8.—(1) Biometric information provided in accordance with these Regulations 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.

(2) Biometric information retained by virtue of paragraph (1) may also 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; ^{F18}and]
- (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; ^{F19}...

^{F19}(e)

Textual Amendments

- F17** Regs. 8-10B substituted for regs. 8-10 (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **7**
- F18** Word in reg. 8(2)(c) inserted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **32(3)(a)** (with reg. 32(6))
- F19** Reg. 8(2)(e) and word omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **32(3)(b)** (with reg. 32(6))

[^{F20}Power to use and retain existing biometric information

8A.—(1) This regulation applies where—

- (a) a person makes an application; and
- (b) the Secretary of State already has a record of the person’s fingerprints or a photograph of the person’s face in their possession (for whatever reason).

(2) Where this regulation applies, the Secretary of State may use or retain that information for the purposes of these Regulations.]

Textual Amendments

- F17** Regs. 8-10B substituted for regs. 8-10 (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), **7**
- F20** Reg. 8A inserted (1.7.2021) by [The Immigration \(Collection, Use and Retention of Biometric Information and Related Amendments\) Regulations 2021 \(S.I. 2021/772\)](#), reg. 1(1), **Sch. para. 2(2)**

Destruction of biometric information

9.—(1) The Secretary of State must take all reasonable steps to ensure that biometric information held by the Secretary of State by virtue of these Regulations, including any copies, is destroyed if the Secretary of State—

- (a) no longer thinks that it is necessary to retain the information for use as mentioned in regulation 8(1); or
- (b) subject to the exception in paragraph (2), 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.

(2) The exception is that photographs of a person who is registered or naturalised as a British citizen may be retained until the person is issued with a United Kingdom passport describing the person as a British citizen.

Textual Amendments

F17 Regs. 8-10B substituted for regs. 8-10 (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), 7

Retention of fingerprints

10.—(1) Save where regulation 9 applies and subject to paragraphs (2) and (3), the Secretary of State must take all reasonable steps to ensure that any record of a person’s fingerprints held by the Secretary of State by virtue of these Regulations, including any copies, is destroyed at the end of the period of [^{F21}15] years beginning with [^{F22}—

- (a) the date on which the fingerprints were provided; or
- (b) the date on which they are reused in connection with an application made by the person which comes within paragraph (5),
whichever is the later.]

(2) But fingerprints can be held beyond that period if they are—

- (a) the fingerprints of a person who is, or at any time has been, subject to a deportation order, exclusion order or decision to exclude;
- (b) the fingerprints of a person who can be, or at any time could have been, refused entry clearance or leave to enter for a period specified in the immigration rules because of a previous breach of the United Kingdom’s immigration laws;
- (c) fingerprints that the Secretary of State deems it necessary for national security reasons to retain for use in connection with one of the functions specified in regulation 8(1);
- (d) the fingerprints of a person with indefinite leave to enter or remain in the United Kingdom; [^{F23}or]
- (e) the fingerprints of a person whose indefinite leave to enter or remain in the United Kingdom lapses, is revoked or is cancelled, in which case they must be destroyed by the Secretary of State at the end of ten years beginning with the date of the lapse, revocation or cancellation (as the case may be); ^{F24}...

^{F24}(f)

(3) The Secretary of State is only required to take steps to destroy, pursuant to paragraph (2) (e) ^{F25}..., the fingerprints of a person whose leave has lapsed ^{F26}... on the application, supported by evidence to the satisfaction of the Secretary of State, of that person.

^{F27}(4)

[^{F28}(5) An application comes within this paragraph if it is an application for—

- (a) entry clearance;
- (b) leave to enter;
- (c) leave to remain; or
- (d) registration or naturalisation as a British citizen.]

Textual Amendments

F17 Regs. 8-10B substituted for regs. 8-10 (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), 7

- F21** Word in reg. 10(1) substituted (1.7.2021) by The Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021 (S.I. 2021/772), reg. 1(1), **Sch. para. 2(3)(a)(i)**
- F22** Reg. 10(1)(a)(b) substituted for words in reg. 10(1) (1.7.2021) by The Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021 (S.I. 2021/772), reg. 1(1), **Sch. para. 2(3)(a)(ii)**
- F23** Word in reg. 10(2)(d) inserted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **32(4)(a)** (with reg. 32(7))
- F24** Reg. 10(2)(f) and word omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **32(4)(b)** (with reg. 32(7))
- F25** Words in reg. 10(3) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **32(4)(c)(i)** (with reg. 32(7))
- F26** Words in reg. 10(3) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **32(4)(c)(ii)** (with reg. 32(7))
- F27** Reg. 10(4) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **32(4)(d)** (with reg. 32(7))
- F28** Reg. 10(5) inserted (1.7.2021) by The Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021 (S.I. 2021/772), reg. 1(1), **Sch. para. 2(3)(b)**

Destruction etc. of electronic data

10A.—(1) The Secretary of State must take all reasonable steps to ensure—

- (a) that data held in electronic form which relates to biometric information which has to be destroyed by virtue of these Regulations is destroyed or erased; or
- (b) that access to such data is blocked.

(2) A person whose biometric information has to be destroyed by virtue of these Regulations is entitled, on written request, to a certificate issued by the Secretary of State to the effect that the Secretary of State has taken the steps required by paragraph (1).

(3) A certificate issued under paragraph (2) must 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.

Textual Amendments

- F17** Regs. 8-10B substituted for regs. 8-10 (6.4.2015) by The Immigration (Provision of Physical Data) (Amendment) Regulations 2015 (S.I. 2015/737), regs. 1(1), **7**

Biometric information: retention under another power

10B. The requirements in these Regulations to destroy biometric information or data do not apply if and in so far as the information or data is retained in accordance with and for the purposes of another power.]

Textual Amendments

F17 Regs. 8-10B substituted for regs. 8-10 (6.4.2015) by [The Immigration \(Provision of Physical Data\) \(Amendment\) Regulations 2015 \(S.I. 2015/737\)](#), regs. 1(1), 7

Revocation and transitional provisions

11.—(1) Subject to paragraphs (2) and (3), the Regulations specified in the Schedule are revoked.

(2) For the purposes of paragraph (3) only, “application” means an application within the meaning of regulation 2 of the Immigration (Provision of Physical Data) Regulations 2003 ^{M3} (the “2003 Regulations”).

(3) Where a person made an application before these Regulations came into force, the 2003 Regulations will continue to apply for the purposes of that application as if they had not been revoked by paragraph (1).

Marginal Citations

M3 [S.I. 2003/1875](#) amended by [S.I. 2004/474](#), [S.I. 2004/1834](#) and [S.I. 2005/3127](#).

Home Office

Joan Ryan
Parliamentary Under-Secretary of State

SCHEDULE

Regulation 11

(1)	(2)
<i>Orders revoked</i>	<i>References</i>
The Immigration (Provision of Physical Data) Regulations 2003	S.I. 2003/1875
The Immigration (Provision of Physical Data) (Amendment) Regulations 2004	S.I. 2004/474
The Immigration (Provision of Physical Data) (Amendment)(No. 2) Regulations 2004	S.I. 2004/1834
The Immigration (Provision of Physical Data) (Amendment) Regulations 2005	S.I. 2005/3127

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 126 of the Nationality, Immigration and Asylum Act 2002. Under regulation 3 an “authorised person” may require a person who makes an application for entry clearance or leave to enter (in certain circumstances) to provide a record of his fingerprints and a photograph of his face. An “authorised person” is defined under section 141(5) of the Immigration and Asylum Act 1999 and includes immigration officers and certain officers of the Secretary of State.

Under regulation 6, the authorised person may require the individual to submit to any process listed under paragraph (2) for his fingerprints or a photograph of his face to be taken. He may be required to attend a British Diplomatic mission or Consular post, a Diplomatic mission or Consular post of another State, or other premises nominated by an authorised person, for his fingerprints or photograph to be taken.

Where an individual makes an application for entry clearance, but does not comply with a requirement imposed by these Regulations his application may be treated as invalid (regulation 7(1)). Where an individual makes an application for leave to enter to which these Regulations apply, but does not comply with a requirement imposed by these Regulations, his application may be refused (regulation 7(2) and (3)).

Fingerprints or a photograph can only be taken from an applicant under the age of sixteen where the authorised person is satisfied this will be done in the presence of a responsible adult, and his decision has been confirmed by a person designated for the purpose by the Secretary of State. An adult who takes responsibility for the applicant may not be an authorised person, an officer of the Secretary of State or any other person acting on behalf of the authorised person as part of a process specified under regulation 6(2). These provisions do not apply where it is reasonably believed that the applicant is aged sixteen or over (regulation 4(4)).

These Regulations also require that any record of fingerprints, photograph or a copy of fingerprints or a photograph held by the Secretary of State pursuant to these Regulations must be destroyed within ten years (regulation 8), or as soon as reasonably practicable if the person proves he is a British citizen or a Commonwealth citizen with a right of abode under section 2(1)(b) of the Immigration Act 1971 (regulation 9). Regulation 10(1) makes provision for electronic data

Changes to legislation: *There are currently no known outstanding effects for the The Immigration (Provision of Physical Data) Regulations 2006. (See end of Document for details)*

which relate to any record of fingerprints or photograph to be destroyed or erased, or access to the data blocked. A person whose data are held by the Secretary of State is entitled, within three months of having made a written request, to a certificate issued by the Secretary of State to the effect that he has taken the steps required by regulation 10(1) (regulation 10(2) and (3)). These Regulations revoke the Immigration (Provision of Physical Data) Regulations 2003 (the “2003 Regulations”) subject to transitional provisions (regulation 11). These Regulations differ from the 2003 Regulations which required any application for entry clearance from a country specified in the Regulations to be accompanied by a record of an applicant's fingerprints, where that applicant was aged five or over. The 2003 Regulations also required an application for leave to enter to be accompanied by a record of fingerprints where the applicant (aged five or over) presented a Convention travel document endorsed with an entry clearance, except where the applicant had already given their fingerprints when applying for the entry clearance.

Changes to legislation:

There are currently no known outstanding effects for the The Immigration (Provision of Physical Data) Regulations 2006.