



# Identity Cards Act 2006

## 2006 CHAPTER 15

### *Supplemental*

#### **40 Orders and regulations**

- (1) Every power conferred by this Act on the Secretary of State or the National Assembly for Wales to make an order or regulations is a power exercisable by statutory instrument.
- (2) The following powers are powers exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12))—
  - (a) the power of a Northern Ireland department to make regulations under section 13; and
  - (b) the power of the Office of the First Minister and deputy First Minister to make an order under section 14(1)(b) designating a Northern Ireland department for the purposes of the power to make such regulations.
- (3) A statutory instrument containing regulations which—
  - (a) contain provisions that the Secretary of State is authorised to make by this Act, and
  - (b) are not regulations a draft of which is required to have been laid before Parliament and approved by a resolution of each House,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Every power conferred by this Act on a person to make an order or regulations (other than the power of the Secretary of State to make an order under section 44(3)) includes power—
  - (a) to make different provision for different cases;
  - (b) to make provision subject to such exemptions and exceptions as that person thinks fit; and
  - (c) to make such incidental, supplemental, consequential and transitional provision as that person thinks fit.

- (5) The power under subsection (4) to make incidental, supplemental and consequential provision in connection with so much of any order or regulations as authorises or requires anything to be done by or in relation to an individual under the age of 16 includes power to provide—
- (a) for the designation of a person to act on that individual's behalf for the purposes of this Act;
  - (b) for that individual's obligations and liabilities by virtue of this Act to fall, in the manner and to the extent specified, on the person designated; and
  - (c) for section 10 to have effect (even where that individual is not issued with an ID card) as if obligations arising under that section where an ID card has been issued fell to be discharged in relation to that individual by the person designated.
- (6) The power of the Secretary of State under subsection (4) to make supplemental and consequential provision in connection with a modification of Schedule 1 made by an order under section 3(6) includes power—
- (a) to make modifications of any reference in this Act to a paragraph of that Schedule; and
  - (b) in connection with that modification, to amend section 12(2) and (3) in such manner as he thinks fit.
- (7) Any power to make provision by regulations under this Act for the approval of a person or of apparatus includes power to provide—
- (a) for the grant of an approval subject to prescribed conditions;
  - (b) for the modification of such conditions in the prescribed manner; and
  - (c) for the suspension or withdrawal of an approval.

#### **41 Expenses of Secretary of State**

There shall be paid out of money provided by Parliament—

- (a) any sums authorised or required to be paid by the Secretary of State for or in connection with the carrying out of his functions under this Act; and
- (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.

#### **42 General interpretation**

(1) In this Act—

“apparatus” includes any equipment, machinery or device and any wire or cable, together with any software used with it;

“biometric information”, in relation to an individual, means data about his external characteristics, including, in particular, the features of an iris or of any other part of the eye;

“card” includes a document or other article, or a combination of a document and an article, in or on which information is or may be recorded;

“the Commissioner” means the National Identity Scheme Commissioner appointed under section 22;

“confirm”, in relation to the contents of an individual's entry in the Register, is to be construed in accordance with subsection (4);

“contravention” includes a failure to comply, and cognate expressions are to be construed accordingly;

“crime” means a crime within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) of that Act);

“designated document” means a document of a description designated for the purposes of this Act by an order under section 4;

“designated documents authority” means a person with the power or duty to issue a designated document;

“detection”, in relation to crime or serious crime, is to be construed in accordance with subsection (9);

“document” includes a stamp or label;

“enactment” includes—

(a) a provision of Northern Ireland legislation; and<sup>34</sup>

(b) enactments passed or made after the passing of this Act;

“false”, in relation to information, includes containing any inaccuracy or omission that results in a tendency to mislead (and is to be construed subject to section 3(5));

“fingerprint”, in relation to an individual, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of any of his fingers;

“ID card” is to be construed in accordance with section 6(1);

“information” includes documents and records;

“issue”, in relation to a document or card, and cognate expressions are to be construed in accordance with subsection (5);

“modification” includes omission, addition or alteration, and cognate expressions are to be construed accordingly;

“necessary in the public interest” is to be construed in accordance with section 1(4);

“place of residence” and “resides” and cognate expressions are to be construed subject to any regulations under subsection (10);

“prescribed” means prescribed by regulations made by the Secretary of State;

“public authority” has the same meaning as in section 6 of the Human Rights Act 1998 (c. 42);

“public service” is to be construed in accordance with subsection (2);

“the Register” means the National Identity Register established and maintained under section 1;

“registrable fact” has the meaning given by section 1(5) and (6);

“serious crime” means crime that is serious crime within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) and (3) of that Act);

“statutory purposes” means the purposes specified in section 1(3);

“subject to compulsory registration” means required to be entered in the Register in accordance with an obligation imposed by an Act of Parliament passed after the passing of this Act;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

(2) References in this Act to the provision of a public service are references to—

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

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- (a) the provision of any service to an individual by a public authority;
  - (b) the exercise or performance in relation to an individual of any power or duty of a Minister of the Crown, the Treasury or a Northern Ireland department;
  - (c) the doing by any other person of anything in relation to an individual which that other person is authorised or required to do for purposes connected with the carrying out of any function conferred by or under an enactment;
  - (d) the provision of any service to an individual under arrangements made (directly or indirectly) between the person providing the service and a public authority who, for purposes connected with the carrying out of a function so conferred on that authority, bears the whole or a part of the expense of providing the service to that individual; or
  - (e) the acceptance or acknowledgment of the conduct of an individual as compliance by that individual with a requirement imposed on him by or under an enactment, or the receipt of any notification or information provided by an individual for the purpose of complying with such a requirement.
- (3) References in this Act to an application for the provision of a public service include references to any claim, request or requirement for the provision of the service.
- (4) References in this Act to an individual confirming the contents of his entry in the Register are references to his confirming that entry to the extent only that it consists of information falling within paragraphs 1 to 5 of Schedule 1 or section 3(3).
- (5) References in this Act to the issue of a document or card include references to its renewal, replacement or re-issue (with or without modifications).
- (6) References in this Act to a designated document being issued together with an ID card include references to the ID card and the designated document being comprised in the same card.
- (7) References in this Act to providing a person with information recorded in an individual's entry in the Register include references to confirming or otherwise disclosing to him—
- (a) that the information is recorded in that entry; or
  - (b) that particular information is not recorded in that entry.
- (8) References in this Act to information recorded in an individual's entry in the Register include references to a password or code generated by a method so recorded.
- (9) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (c. 23) (which defines detection) applies for the purposes of this Act as it applies for the purposes of the provisions of that Act that are not in Chapter 1 of Part 1 of that Act.
- (10) The Secretary of State may by regulations make provision for the purposes of this Act as to the circumstances in which a place is to be regarded, in relation to an individual—
- (a) as a place where he resides; or
  - (b) as his principal place of residence in the United Kingdom.

### **43 Scotland**

- (1) The use in or as regards Scotland of the Register or of a card issued in accordance with this Act is authorised, and is capable of being authorised, only—
- (a) in relation to a matter, or for purposes, outside the legislative competence of the Scottish Parliament; or

- (b) in accordance with an Act of that Parliament.
- (2) Regulations under section 13 may not allow or require the imposition of a condition in or as regards Scotland on the provision of a public service except where the provision of that service is outside the legislative competence of the Scottish Parliament.
- (3) Nothing in this section restricts—
  - (a) the effect of any provision of this Act authorising information recorded in the Register to be provided to a person;
  - (b) any power under this Act to make provision authorising such information to be provided to a person; or
  - (c) any power under this Act to make provision (including provision about the use of ID cards) for purposes connected with the authorisation by virtue of this Act of the provision of such information to a person.

#### **44 Short title, repeals, commencement, transitory provision and extent**

- (1) This Act may be cited as the Identity Cards Act 2006.
- (2) The enactments in Schedule 2 are repealed to the extent shown in the second column of that Schedule.
- (3) This Act (apart from this section and sections 36 and 38) shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (4) The power to bring provisions of this Act into force on different days for different purposes includes power—
  - (a) to bring provisions into force on different days in relation to different areas or descriptions of persons;
  - (b) to bring provisions into force in relation to a specified area or a specified description of persons for the purpose of conducting a trial of the arrangements under which the provisions will have effect when brought into force in relation to other areas or descriptions of persons; and
  - (c) power to make transitional provision in connection with the bringing into force of any provision of this Act following the conduct of such a trial.
- (5) Sections 36 and 38 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) Her Majesty may by Order in Council provide for provisions of this Act to extend with such modifications (if any) as She thinks fit to any of the Channel Islands or to the Isle of Man.
- (7) Section 40(4) applies to the power of Her Majesty in Council to make an Order in Council under subsection (6) as it applies to the power of any other person to make an order under this Act.
- (8) This Act extends to Northern Ireland.