

## **IDENTITY CARDS ACT 2006**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

##### ***Required identity checks***

##### ***Section 13: Power to make public services conditional on identity checks***

92. *Identity Cards – the next steps (Cm 6020)* sets out two objectives for the use of ID cards in relation to public services. These were to simplify checks on eligibility for services and to reduce fraudulent use of services. This section provides a power to make, on a case by case basis, a link between the ID cards scheme and the provision of public services. This power will only be used where power does not exist elsewhere, for example in social security legislation. Section 42(2) defines what is meant by the provision of a public service.
93. *Subsection (1)* provides a power to make regulations which allow or require a person who provides a public service to make it a condition of providing the service that an individual produces an ID card and/or other evidence of his registrable facts. This will give service providers flexibility in deciding what proof of identity is the most appropriate in the particular circumstances and what level of identity check is necessary. The ID card on its own may suffice. Alternatively, someone's identity could be checked against the Register, using for example a biometric, when the card is not present.
94. *Subsection (2)* ensures that regulations made under subsection (1) cannot make it a requirement to produce an ID card or information which can be verified against the National Identity Register in order to receive payments provided under legislation or any service provided free of charge before it is compulsory for that individual to register. This means that an order under section 13 cannot make it a requirement for a person to produce a card, for example to receive social security benefits or free NHS treatment, until it is compulsory for that person to be registered. As noted above, compulsory registration means an obligation to register imposed under future primary legislation.
95. *Subsection (3)* specifically excludes the possibility of an order under section 13 making the carrying of cards compulsory. This includes both the carrying of a card and its production on demand other than for the purposes of an application for a public service.
96. Section 43(2) provides that the powers under this section do not extend to public services provided in Scotland that are within the legislative competence of the Scottish Parliament. If the Scottish Parliament wishes to make production of a card a condition of the provision of those services, it would first have to pass its own Act.