

# IMMIGRATION ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1: Removal and other powers**

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

74. *Subsection (1)* substitutes a new section 8 of the 2007 Act.
75. New section 8(1) requires the Secretary of State to make provision about the use and retention of biometric information provided pursuant to regulations made under section 5 of the 2007 Act.
76. New section 8(2) provides that the regulations must provide that biometric information is retained only if it necessary to retain it for use in connection with the exercise of functions in relation to immigration or nationality.
77. New section 8(3) provides that the regulations may include provision permitting the use of retained biometric information for non-immigration purposes, such as the prevention of crime and disorder or the protection of national security.
78. New sections 8(4), 8(5) and 8(6) provide that the regulations must include provision about the destruction of biometric information and must require the Secretary of State to take all reasonable steps to ensure that information is destroyed if its retention is no longer necessary for an immigration or nationality purpose and in all cases where the Secretary of State is satisfied that a person is a British citizen or a Commonwealth citizen with the right of abode. The requirement to destroy biometric information extends to copies, whether held electronically or otherwise.
79. New section 8(7) allows biometric information which would otherwise be required to be destroyed to be retained if it is retained in accordance with another power.
80. New section 8(8) provides for persons whose biometric information has been destroyed by virtue of the regulations to obtain a certificate confirming this on request from the Secretary of State.
81. New section 8(9) provides that section 6(6) of the 2007 Act applies to this section as it does for regulations made under section 5(1) of the 2007 Act, which means the regulations are subject to the affirmative resolution procedure.
82. *Subsections (2) and (3)* make corresponding amendments, so that regulations made under section 8 of the 2007 Act must also include provision for the use and retention of biometric information provided under sections 141 and 144 of the 1999 Act and section 126 of the 2002 Act.
83. The Government has published a statement of intent explaining its plans for the use and retention of biometric data taken pursuant to immigration powers.<sup>1</sup>

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<sup>1</sup> *Immigration Bill Statement of Intent – Use and retention of biometric information*, <https://www.gov.uk/government/publications/immigration-bill-part-1-removal>.