



Immigration Act 2014

2014 CHAPTER 22

PART 1

REMOVAL AND OTHER POWERS

VALID FROM 28/07/2014

Biometrics

8 Provision of biometric information with immigration applications

- (1) Section 126 of the Nationality, Immigration and Asylum Act 2002 (power to require provision of physical data with certain immigration applications) is amended as follows.
- (2) In subsection (2), after paragraph (c) insert—
 - “(d) a transit visa (within the meaning of section 41 of the Immigration and Asylum Act 1999), or
 - (e) a document issued as evidence that a person who is not a national of an EEA state or Switzerland is entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.”
- (3) In subsection (4), after paragraph (f) insert—
 - “(fa) provide for biometric information to be recorded on any document issued as a result of the application in relation to which the information was provided;”
- (4) In subsection (9), after the definition of “code” insert—

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““document” includes a card or sticker and any other method of recording information (whether in writing or by the use of electronic or other technology or by a combination of methods),”.

9 Identifying persons liable to detention

In paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take steps for identifying persons detained under paragraph 16 of that Schedule) after “detained” insert “ or liable to be detained ”.

10 Provision of biometric information with citizenship applications

(1) Section 41 of the British Nationality Act 1981 (regulations for giving effect to the Act) is amended as follows.

(2) In subsection (1), after paragraph (b) insert—

“(bza) requiring an application for registration or naturalisation of a person as a British citizen to be accompanied by biometric information, or enabling an authorised person to require an individual to whom such an application relates to provide biometric information;”.

(3) After subsection (1) insert—

“(1ZA) In subsection (1)(bza) “authorised person” and “biometric information” have the same meaning as in section 126 of the Nationality, Immigration and Asylum Act 2002.

(1ZB) Section 126(4) to (7) of that Act applies to regulations under subsection (1) (bza) as it applies to regulations under section 126(1) of that Act.

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

(1ZD) But (despite section 8(5)(b) of that Act) regulations made by virtue of subsection (1ZC) may provide for photographs of a person who is registered or naturalised as a British citizen to be retained until the person is issued with a United Kingdom passport describing the person as a British citizen.”

(4) In subsection (8)(b) for “(1)(bc)” substitute “ (1)(bza), (bc) ”.

11 Biometric immigration documents

After section 7(2) of the UK Borders Act 2007 (effect of failure to comply with regulations about biometric immigration documents) insert—

“(2A) If the regulations require a biometric immigration document to be used in connection with an application or claim, they may require or permit the application or claim to be disregarded or refused if that requirement is not complied with.”

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12 Meaning of “biometric information”

- (1) Section 15 of the UK Borders Act 2007 (biometric immigration documents: interpretation) is amended as follows.
- (2) In subsection (1), omit paragraphs (b) and (c).
- (3) After subsection (1) insert—
 - “(1A) For the purposes of section 5 “biometric information” means—
 - (a) information about a person's external physical characteristics (including in particular fingerprints and features of the iris), and
 - (b) any other information about a person's physical characteristics specified in an order made by the Secretary of State.
 - (1B) An order under subsection (1A)(b)—
 - (a) may specify only information that can be obtained or recorded by an external examination of a person;
 - (b) must not specify information about a person's DNA.
 - (1C) Section 6(6) applies to an order under subsection (1A)(b) as it applies to regulations under section 5(1).”
- (4) Schedule 2 (which amends other enactments) has effect.

13 Safeguards for children

- (1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows.
- (2) In paragraph 4 (power to take biometric information on examination), after sub-paragraph (6) (as inserted by paragraph 1(3) of Schedule 2) insert—
 - “(7) A person (“P”) who is under 16 may not be required to provide biometric information under sub-paragraph (5) unless—
 - (a) the decision to require P to provide the information has been confirmed by a chief immigration officer, and
 - (b) the information is provided in the presence of a person of full age who is—
 - (i) P's parent or guardian, or
 - (ii) a person who for the time being takes responsibility for P.
 - (8) The person mentioned in sub-paragraph (7)(b)(ii) may not be—
 - (a) a person who is entitled to require the provision of information under sub-paragraph (5) (an “authorised person”), or
 - (b) an officer of the Secretary of State who is not such a person.
 - (9) Sub-paragraph (7) does not prevent an authorised person requiring the provision of biometric information by a person the authorised person reasonably believes to be 16 or over.”
- (3) In paragraph 18 (power to take biometric information from detained persons), after sub-paragraph (2A) insert—
 - “(2B) Paragraph 4(7) to (9) applies to sub-paragraph (2) as it applies to paragraph 4(5).”

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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,
 - (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.

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- (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,
- 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.”

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