

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION (PROVISION OF PHYSICAL DATA) (AMENDMENT)
REGULATIONS 2011

2011 No. 1779

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The purpose of the Immigration (Provision of Physical Data) (Amendment) Regulations 2011 (“2011 Regulations”) is to enable the collection of fingerprints and a facial image from persons accredited for the 2012 London Olympic and Paralympic Games, who would normally be required to apply for a visa and therefore have their biometric information taken as visa nationals. However due to their holding an Olympic or Paralympic Identity and Accreditation Card (“accreditation card”) they will not require a visa to enter the UK and so the normal powers to take biometrics will not apply.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Immigration (Provision of Physical Data) Regulations 2006 requires an application for entry clearance to be accompanied by the applicant’s fingerprints and facial image. These are collected as part of the visa application process overseas. Under the immigration rules persons who are a national or citizen of a country listed in Appendix 1 are normally required to apply for a visa (entry clearance) before travelling to the UK (subject to exemptions set out in paragraph 2 to Appendix 1).
 - 4.2 These Regulations amend the Immigration (Provision of Physical Data) Regulations 2006 to enable biometric information to be taken upon an application for leave to enter or remain from persons accredited for the 2012 London Olympics and Paralympic Games. These persons would usually be required to apply for a visa and have their biometric information taken as visa nationals. When Her Majesty’s Government signed the Host City Contract for the Games it gave a commitment that in specified circumstances there would be no requirement for certain holders of the accreditation card to apply for a visa before travelling to the UK. These Regulations will enable the

UK Border Agency to maintain current level of checks of biometric information on all visa nationals.

- 4.3 Similar amendments are intended to be made to the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 to allow an authorised person to collect the fingerprints and facial images of the same category of accreditation card holder when they apply for leave to enter the UK at the UK's Juxtaposed Seaport Controls in France. Later in 2011, amendments are also intended to be made to the Channel Tunnel (International Arrangements Order) 1993 and the Channel Tunnel (Miscellaneous Provisions) Order 1994 in order to allow an authorised person to collect the facial image and fingerprints of the same category of the accreditation card holder when they apply for leave to enter the UK at the UK's other Juxtaposed Controls in France and Belgium.
- 4.4 An amendment to the immigration rules will be made to allow certain holders to use the accreditation card in lieu of a visa. The card will also have to be used for entry by a specified time in order for holders to continue to be entitled to a visa waiver. The immigration rules will also be amended to create a new category of leave to facilitate accreditation card holders' entry and stay in the UK during the Accreditation Period of the Games.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom

6. European Convention on Human Rights

Damian Green, Minister of State for Immigration has made the following statement regarding Human Rights.

In my view the provisions of the 2011 Regulations are compatible with the Convention rights.

7. Policy background

- 7.1 The purpose of the 2011 Regulations is to help the UK deliver a safe and secure Olympic and Paralympic Games. It does this by enabling the UK Border Agency to maintain a proportionate level of usual security checks on visa national accreditation card holders between 30 March 2012 and 8 November 2012.
- 7.2 Visa nationals are nationals of specified countries who require a visa to lawfully enter the UK. Since 2008, visa nationals have been required to provide fingerprints and a facial image as part of the visa application process. The fingerprints are checked against Government databases and verified when the visa national seeks entry through the border

control of an equipped UK port to ensure the person seeking entry is the same person who applied for the visa.

- 7.3 The London Organising Committee for the Olympic and Paralympic Games (LOCOG) will issue the accreditation card to individuals associated with the Games such as athletes, umpires, technical and support staff and broadcasters and other individuals. These people are referred to as Games Family Members (GFM).
- 7.4 Approximately 20,000 visa national GFMs will be able to use their accreditation card instead of applying for a visa. It is estimated that up to a further 2,000 visa nationals GFM's whilst having an accreditation card will not be entitled to use the card as a visa waiver and will need to apply for a visa before travelling to the UK.
- 7.5 As part of the usual visa application process, applicants would normally be required to provide their fingerprints and a facial image to the UK Border Agency prior to travelling to the UK. To address this and to maintain a business as usual approach for visa nationals and preserve its security checks, the UK Border Agency needs to be able to collect the fingerprints and facial images of visa national GFM at the UK border and as a contingency inland.
- 7.6 The 2011 Regulations provide for this by allowing persons authorised under the 2006 Regulations to request a visa national GFM to provide their fingerprints and facial image when they apply for leave to enter on arrival in the UK or, if they were not required to provide them on arrival when they apply for leave to remain between 30 March 2012 and 8 November 2012.
- 7.7 The UK Border Agency will only use the provisions of the 2011 Regulations to collect the fingerprints and photographs of visa national GFM who are identified as having not previously provided them to the UK Border Agency.

8. Consultation outcome

- 8.1 The UK Border Agency consulted LOCOG who have not objected to the collection of visa national GFM fingerprints and facial images, provided that the process for doing so is communicated very clearly to applicants in advance.
- 8.2 A formal consultation exercise has not been undertaken because the 2011 Regulations do not place a new requirement on all visa nationals to provide fingerprints and facial images to the UK Border Agency. Visa nationals already have to provide their fingerprints and facial image when they apply for a visa. The 2011 Regulations essentially change the locations where a certain limited group of visa nationals' fingerprints and facial images can be collected for a restricted period during a one-off event.

9. Guidance

- 9.1 The UK Border Agency will provide instructions and guidance to its officers to ensure the fingerprints and facial images are efficiently collected. The UK Border Agency will also engage with LOCOG to ensure countries' National Organising Committee for the Olympics and Paralympics Games are aware of the collection prior to the commencement of the Accreditation Period.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is an impact on the public sector. An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk

11. Regulating small business

- 11.1 The legislation will not apply to small business.

12. Monitoring & review

- 12.1 The UK Border Agency will keep the impact of the collection of visa national GFM fingerprints and facial images under review and will evaluate the collection at the end of the Accreditation Period. These Regulations will cease to have effect on 9 November 2012.

13. Contact

The following UK Border Agency official is able to answer queries regarding the instrument

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