

IDENTITY CARDS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Required identity checks

Section 15: Power to provide for checks on the Register

103. This section provides a power to the Secretary of State to enable checks to be made of information recorded in the Register by people providing public services. It also gives the Secretary of State the power to regulate identity checks, including an accreditation scheme for user organisations and the equipment they are using.
104. *Subsection (1)* enables the Secretary of State to make regulations allowing the provision of information to a person providing a public service for which regulations under section 13 have been made or in respect of which any other legislation makes it a condition to produce an ID card or any other evidence of registrable facts recorded on the Register. This must be for the purposes of ascertaining or verifying information about an individual applying for the public service.
105. *Subsection (2)* limits the Regulation making power such that information falling under paragraph 9 of Schedule 1 (audit log information) may not be provided under this section.
106. *Subsection (3)* provides that regulations may specify the manner in which applications for checks on the Register are to be made, the persons by whom and the circumstances in which the application may be made, the information that may be provided and how it may be provided.
107. *Subsections (4) and (5)* read together have the effect that the provision of information under this section may only take place where the Secretary of State has made regulations requiring accreditation, and the applicant for information has satisfied the requirements of those regulations. Section 40(7) sets out in more detail what regulations for the approval of a person or of apparatus may include.
108. The regulations are subject to the affirmative resolution procedure (*Subsection (6)*). Before any draft regulations are laid before Parliament, the Secretary of State must take steps to ensure that members of the public in the United Kingdom are informed and consulted on any proposals (*Subsection (7)*).
109. *Subsection (8)* ensures that “enactment” for the purposes of this section includes an Act of the Scottish Parliament. This means that if a Scottish Act were to make it a condition of providing a service that an ID Card or evidence of registrable facts be produced, the Scottish service provider could apply for a check against the Register.