

SCHEDULE 2A

Article 3

Provisions of the Nationality, Immigration and Asylum Act 2002 as extended to Guernsey

Provision as extended to Guernsey

126 Physical data: compulsory provision

- (1) The States of Guernsey Committee for Home Affairs may by regulations—
- (a) require an immigration application to be accompanied by specified biometric information;
 - (b) enable an authorised person to require an individual who makes an immigration application to provide biometric information;
 - (c) enable an authorised person to require an entrant to provide biometric information.
- (2) In subsection (1) “immigration application” means an application for—
- (a) entry clearance,
 - (b) leave to enter or remain in the Bailiwick of Guernsey, or
 - (c) variation of leave to enter or remain in the Bailiwick of Guernsey.
- [...]
- (3) Regulations under subsection (1) may not—
- (a) impose a requirement in respect of a person to whom section 141 of the Immigration and Asylum Act 1999 (c 33) (fingerprinting) applies, during the relevant period within the meaning of that section, or
 - (b) enable a requirement to be imposed in respect of a person to whom that section applies, during the relevant period within the meaning of that section.
- (4) Regulations under subsection (1) may, in particular—
- (a) require, or enable an authorised person to require, the provision of biometric information in a specified form;
 - (b) require an individual to submit, or enable an authorised person to require an individual to submit, to a specified process by means of which biometric information is obtained or recorded;
 - (c) make provision about the effect of failure to provide biometric information or to submit to a process (which may, in particular, include provision for an application to be disregarded or dismissed if a requirement is not satisfied);
 - (d) confer a function (which may include the exercise of a discretion) on an authorised person;
 - (e) require an authorised person to have regard to a code (with or without modification);

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(f) require an authorised person to have regard to such provisions of a code (with or without modification) as may be specified by direction of the prescribed authority;

(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.

[...]

(6) In so far as regulations under subsection (1) require an individual under the age of 16 to submit to a process, the regulations must make provision similar to section 141(3) to (5) and (13) of the Immigration and Asylum Act 1999 (fingerprints: children).

(7) In so far as regulations under subsection (1) enable an authorised person to require an individual under the age of 16 to submit to a process, the regulations must make provision similar to section 141(3) to (5), (12) and (13) of that Act (fingerprints: children).

[...]

(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.

(8B) Regulations under this Act —

(a) may be amended or repealed by subsequent regulations made under this Act,

(b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and

(c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(8C) Any power conferred by this Act to make regulations may be exercised—

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases;

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes;

(iii) any such provision either unconditionally or subject to any conditions specified in the regulations.

(9) In this section—

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“authorised person” has the meaning given by section 141(5) of the Immigration and Asylum Act 1999 (authority to take fingerprints),

“biometric information” has the meaning given by section 15 of the UK Borders Act 2007,

“code” has the meaning given by section 145(6) of the Immigration and Asylum Act 1999 (code of practice),

“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),

“entrant” has the meaning given by section 33(1) of the Immigration Act 1971 (c 77) (interpretation),

“entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971, and

“prescribed authority” means the States of Guernsey Committee for Home Affairs, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations.

(9A) The States of Guernsey Committee for Home Affairs may make regulations to prescribe any person as an authorised person.

127 Physical data: voluntary provision

(1) The States of Guernsey Committee for Home Affairs may operate a scheme under which an individual may supply, or submit to the obtaining or recording of, biometric information to be used (wholly or partly) in connection with entry to the Bailiwick of Guernsey.

(2) In particular, the Committee may—

(a) require an authorised person to use biometric information supplied under a scheme;

(b) make provision about the collection, use and retention of biometric information supplied under a scheme which may include provision requiring an authorised person to have regard to a code;

(c) charge for participation in a scheme.

(3) In this section the following expressions have the same meaning as in section 126—

(a) “authorised person”,

(aa) “biometric information”, and

(b) “code”.

164 Short title

This Act may be cited as the Nationality, Immigration and Asylum Act 2002.