
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration (Provision of Physical Data) Regulations 2003, as amended by the Immigration (Provision of Physical Data)(Amendment) Regulations 2004 and the Immigration (Provision of Physical Data)(Amendment)(No. 2) Regulations 2004 (taken together as “the 2003 Regulations”).

The 2003 Regulations define an “application” as an application for entry clearance to the UK made in one of the countries listed in the Schedule, or an application for leave to enter the UK where the applicant presents a convention travel document endorsed with an entry clearance. A “convention travel document” means a travel document issued pursuant to the Refugee Convention, except where that document was issued by the UK. The Regulations provide that any “application” by a person aged 5 or over must be accompanied by a record of that person’s fingerprints, subject to the procedural requirements for taking fingerprints from those under the age of 16. If no record of fingerprints is provided, an application for entry clearance may be treated as invalid and an application for leave to enter may be refused.

These Regulations make two principal amendments to the 2003 Regulations.

The first amendment restricts the definition of “application” in Regulation 2 where a person makes an application for leave to enter and presents a convention travel document endorsed with an entry clearance. That person does not make an “application” under the 2003 Regulations if the entry clearance was granted following a valid application for entry clearance which was made in one of the countries listed in the Schedule. The effect of this is that when an applicant has already made an application for entry clearance accompanied by a record of their fingerprints in accordance with Regulation 3, they do not have to provide a record of fingerprints for a second time when making the subsequent application for leave to enter pursuant to that entry clearance.

The second amendment is to the Schedule. The Schedule to the 2003 Regulations is amended to add three countries: Democratic Republic of the Congo, the Netherlands and Vietnam. From the commencement date, an application for entry clearance in any of these countries must be accompanied by a record of an applicant’s fingerprints in accordance with the Regulations.