

2005 No. 3127

IMMIGRATION

**The Immigration (Provision of Physical Data) (Amendment)
Regulations 2005**

Made - - - - - *9th November 2005*

Coming into force - *16th November 2005*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 126(1) of the Nationality, Immigration and Asylum Act 2002(a).

In accordance with section 126(8)(b) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Immigration (Provision of Physical Data) (Amendment) Regulations 2005 and shall come into force on the expiry of 7 days beginning with the date on which they are made.

Amendment of the Immigration (Provision of Physical Data) Regulations 2003

2. The Immigration (Provision of Physical Data) Regulations 2003(b) is amended as follows.

3. In regulation 2 at the end of paragraph (b) of the definition of “application”, there is inserted “except where the entry clearance was granted following a valid application by that person falling within (a) above”.

4. In the Schedule:

- (a) before “Djibouti”, there is inserted “Democratic Republic of the Congo”;
- (b) after “Kenya”, there is inserted “the Netherlands”; and
- (c) after “Uganda”, there is inserted “Vietnam”.

Home Office
9th November 2005

Andy Burnham
Parliamentary Under-Secretary of State

(a) 2002. c.41.
(b) S.I. 2003/1875 as amended by S.I. 2004/474 and S.I. 2004/1834.

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.

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