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STATUTORY INSTRUMENTS

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**2018 No. 619**

**IMMIGRATION**

**The Immigration (Biometric Registration) (Jersey) Order 2018**

*Made - - - - 23rd May 2018*

*Coming into force in accordance with article 1(1)*

At the Court at Buckingham Palace, the 23rd day of May 2018

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 60(4) of the UK Borders Act 2007<sup>(1)</sup> and section 76(6) of the Immigration Act 2014<sup>(2)</sup>, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Immigration (Biometric Registration) (Jersey) Order 2018 and comes into force on the seventh day after the day on which it is registered by the Royal Court of Jersey.

(2) In this Order—

“the 2007 Act” means the UK Borders Act 2007;

“the 2014 Act” means the Immigration Act 2014;

“Jersey” means the Bailiwick of Jersey.

(3) For the purposes of construing provisions of the 2007 Act and the 2014 Act as part of the law of Jersey, a reference to an enactment which extends to Jersey is construed as a reference to that enactment as it has effect in Jersey.

**Extension of the 2007 Act to Jersey**

2. The following provisions of the 2007 Act shall extend to Jersey—

(a) sections 5 to 15 (Biometric registration);

(b) section 61(1) (Citation),

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(1) 2007 c. 30.

(2) 2014 c. 22.

subject to the modifications, if any, specified in Schedule 1 to this Order.

**Extension of the 2014 Act to Jersey**

3. The following provisions of the 2014 Act shall extend to Jersey—
- (a) section 9 (Identifying persons liable to detention);
  - (b) section 12(4) and Schedule 2 (Meaning of “biometric information”);
  - (c) section 13 (Safeguards for children);
  - (d) section 14 (Use and retention of biometric information);
  - (e) section 77 (Short title),

subject to the modifications, if any, specified in Schedule 2 to this Order.

*Ceri King*  
Deputy Clerk of the Privy Council

SCHEDULE 1

Article 2

Modifications of sections 5, 6, 7, 9, 10, 11, 12, 13, 14 and 15 of the UK Borders Act 2007 as they extend to Jersey

1. In section 5 (Registration regulations)—
  - (a) in the heading for “regulations” substitute “Regulations”;
  - (b) in subsection (1) —
    - (i) for “Secretary of State” substitute “States”;
    - (ii) for “regulations” substitute “Regulations”;
  - (c) in subsection (2)(f) for “regulations” substitute “Regulations”;
  - (d) in subsection (2)(g), (h) and (i) for “Secretary of State” wherever it occurs substitute “Minister”;
  - (e) in subsection (3) —
    - (i) for “Secretary of State” wherever it occurs substitute “Minister”;
    - (ii) for “the United Kingdom” wherever it occurs substitute “Jersey”;
    - (iii) in sub-paragraph (l) for “regulations” substitute “Regulations”;
  - (f) in subsection (4) —
    - (i) for “Secretary of State” substitute “Minister”;
    - (ii) for sub-paragraph (d) substitute —
      - “(d) who was given leave to enter or remain in Jersey in accordance with a provision of directions under section 1(4A) of the Immigration Act 1971 (as extended to Jersey by the Immigration (Jersey) Order 1993) and knows or suspects that owing to a change of the holder’s circumstances the holder would no longer qualify for leave under that provision, or”;
    - (iii) in sub-paragraph (e) for “regulations” substitute “Regulations”;
  - (g) in subsection (5) —
    - (i) for “Secretary of State” wherever it occurs substitute “Minister”;
    - (ii) for “regulations” substitute “Regulations”;
  - (h) in subsection (6) omit “; and section 16 of the Identity Cards Act 2006 (c. 15) (prohibition of requirement to produce ID card) is subject to this subsection”;
  - (i) for subsection (9) substitute —
    - “(9) Directions under section 1(4A) of the Immigration Act 1971 (as extended to Jersey by the Immigration (Jersey) Order 1993) may require a person applying for the issue of a biometric immigration document to provide non-biometric information to be recorded in it or retained by the Minister.”;
  - (j) omit subsection (10).
2. In section 6 (Regulations: supplemental) —
  - (a) for “regulations” wherever it occurs substitute “Regulations”;
  - (b) in subsection (3) for “(c. 33)” substitute “(as extended to Jersey by the Immigration and Asylum Act 1999 (Jersey) Order 2003)”;
  - (c) in subsection (4) for “Rules under section 3 of the Immigration Act 1971 (immigration rules)” substitute “Directions under section 1(4A) of the Immigration Act 1971 (as extended to Jersey by the Immigration (Jersey) Order 1993)”;

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- (d) in subsection (5) for “Secretary of State’s” substitute “Minister’s”;
  - (e) in subsection (6) –
    - (i) at the end of sub-paragraph (b) add “and”;
    - (ii) omit sub-paragraphs (d) and (e).
- 3. In section 7 (Effect of non-compliance)—**
- (a) in subsection (1) for “regulations” in the second place it occurs substitute “Regulations”;
  - (b) in subsection (2) –
    - (i) for “regulations” substitute “Regulations”;
    - (ii) for “the United Kingdom” substitute “Jersey”;
    - (iii) for “Secretary of State” in both places it occurs substitute “Minister”;
  - (c) after subsection (2) insert –

“(2A) If the Regulations require a biometric immigration document to be used in connection with an application or claim, they may require or permit the application or claim to be disregarded or refused if that requirement is not complied with.”;
  - (d) in subsection (3)
    - (i) for “regulations” wherever it occurs substitute “Regulations”;
    - (ii) for “Secretary of State” substitute “Minister”.
- 4. In section 9 (Penalty) —**
- (a) in subsection (1) –
    - (i) for “Secretary of State” substitute “Minister”;
    - (ii) for “regulations” substitute “Regulations”;
  - (b) in subsection (2) –
    - (i) for “Secretary of State” in both places it occurs substitute “Minister”;
    - (ii) for “regulations” substitute “Regulations”;
  - (c) in subsection (5) for “regulations” substitute “Regulations”;
  - (d) for subsection (6) substitute –

“(6) The Minister may by Order amend subsection (3) to reflect a change in the value of money since 25 November 2008.

(7) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under subsection (6).”.
- 5. In section 10 (Penalty: objection) —**
- (a) in subsection (1) –
    - (i) for “Secretary of State” substitute “Minister”;
    - (ii) for “regulations” substitute “Regulations”;
  - (b) in subsections (3) and (4) for “Secretary of State” wherever it occurs substitute “Minister”.
- 6. In section 11 (Penalty: appeal) —**
- (a) for subsection (1) substitute –

“(1) A person (P) who is given a penalty notice under section 9(1) may appeal to the Petty Debts Court.”;
  - (b) in subsection (2)(a) for “regulations” substitute “Regulations”;

- (c) in subsection (3) for “court or sheriff” wherever it occurs substitute “Petty Debts Court”;
  - (d) in subsection (4)(b) for “Secretary of State’s” substitute “Minister’s”;
  - (e) in subsection (5) –
    - (i) for “court or sheriff” substitute “Petty Debts Court”;
    - (ii) for “Secretary of State” substitute “Minister”.
7. In section 12 (Penalty: enforcement) —
- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
  - (b) in subsection (5) for “be paid into the Consolidated Fund” substitute “form part of the annual income of the States”.
8. In section 13 (Penalty: code of practice) —
- (a) for “Secretary of State” wherever it occurs substitute “Minister”;
  - (b) in subsection (3) for “A court or sheriff” substitute “The Petty Debts Court”;
  - (c) in subsection (5) for sub-paragraphs (a), (b) and (c) substitute –
    - “(a) publish proposals, and
    - (b) consult members of the public.”
9. For section 14 (Penalty: prescribed matters) substitute—

**“Penalty: prescribed matters**

- 14.—(1) In sections 10 and 13 “prescribed” means prescribed by the Minister by Order.
- (2) An Order under subsection (1)—
- (a) may make provision generally or only for specified purposes, and
  - (b) may make different provision for different purposes.
- (3) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders under subsection (1).”.
10. For section 15 (Interpretation) substitute—

**“Interpretation**

- 15.—(1) For the purposes of section 5—
- (a) “person subject to immigration control” means a person who under the Immigration Act 1971 (as extended to Jersey by the Immigration (Jersey) Order 1993) requires leave to enter or remain in Jersey (whether or not such leave has been given),
  - (b) “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),
  - (c) “authorised person” has the meaning given by section 141(5) of the Immigration and Asylum Act 1999 (as extended to Jersey by the Immigration and Asylum Act 1999 (Jersey) Order 2003) (authority to take fingerprints),
  - (d) “immigration” includes asylum,
  - (e) “Jersey” means the Bailiwick of Jersey,
  - (f) “Minister” means the Minister for Home Affairs, and

*Status: This is the original version (as it was originally made).*

- (g) Regulations or an Order permitting something to be done by the Minister may (but need not) permit it to be done only where the Minister is of a specified opinion.
- (2) For the purposes of section 5 “biometric information” means—
  - (a) information about a person’s external physical characteristics (including in particular fingerprints and features of the iris), and
  - (b) any other information about a person’s physical characteristics specified in Regulations made by the States.
- (3) Regulations under subsection (2)(b)—
  - (a) may specify only information that can be obtained or recorded by an external examination of a person;
  - (b) must not specify information about a person’s DNA.
- (4) Section 6(6) applies to Regulations under subsection (2)(b).
- (5) An application for a biometric immigration document is an application in connection with immigration for the purposes of sections 67A and 68 of the Immigration Act 2014 (as extended to Jersey by the Immigration (Jersey) Order 2016) (fees); and, in the application of those sections to an application for a biometric immigration document, the prescribed consequences of non-compliance may include any of the consequences specified in section 7(2) above.”.

## SCHEDULE 2

Article 3

### Modifications of sections 13 and 14 of, and Schedule 2 to, the Immigration Act 2014 as they extend to Jersey

1. In section 13 (Safeguards for children) in the inserted paragraph (8)(b) for “Secretary of State” substitute “Minister”.
2. In section 14(1), in the inserted section 8 –
  - (a) in subsection (1) –
    - (i) for “Secretary of State” in the first place it occurs substitute “States”;
    - (ii) for “Secretary of State” in the second place it occurs substitute “Minister”;
    - (iii) for “regulations” in both places it occurs substitute “Regulations”;
  - (b) in subsection (2) –
    - (i) for “regulations” substitute “Regulations”;
    - (ii) for “Secretary of State” substitute “Minister”;
  - (c) after subsection (2) insert –

“(2A) In subsection (2) “the Immigration Acts” means the Immigration Acts of the United Kingdom having effect for the time being as extended to Jersey.”;
  - (d) in subsection (3) –
    - (i) for “regulations” in both places it occurs substitute “Regulations”;
    - (ii) for “Secretary of State” substitute “Minister”;
  - (e) in subsection (4) for “regulations” substitute “Regulations”;
  - (f) in subsection (5) –
    - (i) for “regulations” substitute “Regulations”;

- (ii) for “Secretary of State” in both places it occurs substitute “Minister”;
  - (iii) for “the United Kingdom” substitute “Jersey”;
  - (iv) after “Immigration Act 1971” insert “(as extended to Jersey by the Immigration (Jersey) Order 1993)”.
- (g) in subsection (6) –
- (i) for “regulations” in both places it occurs substitute “Regulations”;
  - (ii) for “Secretary of State” substitute “Minister”;
- (h) in subsection (8) –
- (i) for “regulations” in both places it occurs substitute “Regulations”;
  - (ii) for “Secretary of State” wherever it occurs substitute “Minister”;
- (i) in subsection (9) for “regulations” in both places it occurs substitute “Regulations”.
3. In section 14(2), in the inserted section 144A –
- (a) in subsection (1) –
    - (i) for “regulations” in the first place it occurs substitute “Regulations”;
    - (ii) for “regulations” in the second place it occurs substitute “directions”;
    - (iii) for “regulations” in the third place it occurs substitute “Regulations”;
  - (b) in subsection (3) for “regulations” substitute “directions”.
4. Omit section 14(3).
5. In Schedule 2 omit the entries under “Nationality, Immigration and Asylum Act 2002 (c. 41)” and “Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)”.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order extends to Jersey, with modifications, sections 5 to 15 of the UK Borders Act 2007(c. 30) and associated provisions of the Immigration Act 2014 (c. 22) relating to biometric registration.

The provisions in their extended form empower the States of Jersey to make Regulations in relation to biometric registration, in particular requiring biometric immigration documents to be used for specified immigration purposes and in connection with specified immigration procedures or in specified circumstances, where a question arises about a person’s status in relation to immigration or nationality.

The provisions also empower the Jersey Minister for Home Affairs to require persons to pay a penalty for failing to comply with a requirement of such Regulations, subject to a right of appeal.