

# **SCOTTISH BIOMETRICS COMMISSIONER ACT 2020**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Final provisions***

#### ***Section 37: Regulations***

57. Subsection (1) of section 37 provides that regulations made under the Act may include incidental, supplementary, consequential, transitional, transitory or saving provision and may make different provision for different purposes. Under subsection (2), any regulations made by Scottish Ministers under section 2(7), section 9(4), section 13(1) and section 35 are subject to the affirmative procedure (as to which, see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010). Subsection (3) provides that the procedure for regulations making ancillary provision under section 38 depends upon whether or not the regulations modify the text of primary legislation. Subsection (4) provides that this section does not apply to commencement regulations under section 40(2).

#### ***Section 38: Ancillary provision***

58. This section enables the Scottish Ministers, by regulations, to make incidental, supplementary, consequential, transitional, transitory or saving provision in connection with the Act or any regulations made under it.

#### ***Section 39: Application of public authorities legislation***

59. Section 39 introduces schedule 2 which amends enactments in order to bring the Commissioner within their provisions.

#### ***Section 40: Commencement***

60. Subsection (1) of section 40 provides that this section and sections 37 (regulations), 38 (ancillary provision) and 41 (short title) come into force on the day after Royal Assent. Subsection (2) provides that the rest of the Act will come into force on such day as the Scottish Ministers by regulations appoint. Subsection (3) provides that regulations made under this section may include transitional, transitory or saving provision and may make different provision for different purposes. Subsection (4) sets out that commencement regulations may amend section 28(6)(a) so that a date for the beginning of the first four year period for a strategic plan is specified, instead of a description of a date, once the date of commencement of section 28 is known.

#### ***Section 41: Short title***

61. Section 41 provides that the short title of the Act is the Scottish Biometrics Commissioner Act 2020.