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STATUTORY INSTRUMENTS

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**2020 No. 1560**

**IMMIGRATION**

**The Immigration (Guernsey) Order 2020**

*Made - - - - 16th December 2020*

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

At the Court at Windsor Castle, the 16th day of December 2020

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 36 of the Immigration Act 1971 **(1)**, section 12(5) of the Immigration Act 1988, section 170(7) of the Immigration and Asylum Act 1999 **(2)**, section 163(4) of the Nationality, Immigration and Asylum Act 2002 **(3)**, section 60(4) of the UK Borders Act 2007 **(4)**, section 76(6) of the Immigration Act 2014 **(5)** and section 8(2) and (3) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 **(6)** 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 (Guernsey) Order 2020 and comes into force on the day specified by regulations made by the States of Guernsey Committee for Home Affairs; and different dates may be specified for different provisions and for different purposes.

(2) In this Order—

“the 1971 Act” means the Immigration Act 1971,

“the 1999 Act” means the Immigration and Asylum Act 1999,

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002,

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

“the 2014 Act” means the Immigration Act 2014,

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(1) 1971 c. 77.  
(2) 1999 c. 33.  
(3) 2002 c. 41.  
(4) 2007 c. 30.  
(5) 2014 c. 22.  
(6) 2020 c. 20.

“the 2020 Act” means the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020,

“Guernsey” means the Bailiwick of Guernsey, and

“relevant Act” means the 1971 Act, the 1999 Act, the 2002 Act, the 2007 Act, the 2014 Act or the 2020 Act.

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

#### **Extension of the 1999 Act to Guernsey**

2.—(1) Each provision of the 1999 Act specified in column 1 of Schedule 1 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 1999 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Schedule 1A to this Order sets out the provisions of the 1999 Act as extended to Guernsey.

#### **Extension of the 2002 Act to Guernsey**

3.—(1) Each provision of the 2002 Act specified in column 1 of Schedule 2 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 2002 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Schedule 2A to this Order sets out the provisions of the 2002 Act as extended to Guernsey.

#### **Extension of the 2007 Act to Guernsey**

4.—(1) Each provision of the 2007 Act specified in column 1 of Schedule 3 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 2007 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Schedule 3A to this Order sets out the provisions of the 2007 Act as extended to Guernsey.

#### **Extension of the 2014 Act to Guernsey**

5.—(1) Each provision of the 2014 Act specified in column 1 of Schedule 4 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 2014 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Schedule 4A to this Order sets out the provisions of the 2014 Act as extended to Guernsey.

#### **Extension of the 2020 Act to Guernsey**

6.—(1) Each provision of the 2020 Act specified in column 1 of Schedule 5 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) Schedule 5A to this Order sets out the provisions of the 2020 Act as extended to Guernsey.

### **Amendments to the Immigration (Guernsey) Order 1993**

7. In Part III of Schedule 1 to the Immigration (Guernsey) Order 1993 (7), omit paragraph (2).

### **Amendments to the Immigration and Asylum Act 1999 (Guernsey) Order 2003**

8. In the Schedule to the Immigration and Asylum Act 1999 (Guernsey) Order 2003(8) –
- (a) in the entry relating to section 141 (fingerprinting) of the 1999 Act, in the right-hand column, for the paragraph relating to subsection (5) of that section, for “omit subsection (5) (e)”, substitute “for paragraph (e), substitute the following paragraph –
    - “(e) any person who is an authorised person within the meaning of this subsection as it has effect in the United Kingdom.”,
  - (b) omit the entries relating to section 144 (other methods of collecting data about physical characteristics) and section 146 (use of force) of the 1999 Act, and
  - (c) in the entry relating to section 167 (interpretation) of the 1999 Act, in the right-hand column, in the entry relating to subsection (1) of that section –
    - (i) in paragraph (b), after ““the Commission””, insert “, “the Immigration Acts””, and
    - (ii) omit paragraph (e).

*Richard Tilbrook*  
Clerk of the Privy Council

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SCHEDULE 1

Article 2

Extension and modification of provisions of the Immigration and Asylum Act 1999

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 144 of the 1999 Act; as amended by section 128(1) of the 2002 Act; section 12(4) of, and paragraph 2(1), (2) and (3) of Schedule 2 to, the 2014 Act.	<p>In subsection (1), for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs”.</p> <p>Immediately after subsection (2), insert the following subsections –</p> <p>“(3) Regulations under this Act -</p> <p>(a) may be amended or repealed by subsequent regulations made under this Act,</p> <p>(b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and</p> <p>(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.</p> <p>(4) Any power conferred by this Act to make regulations may be exercised–</p> <p>(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;</p> <p>(b) so as to make, as respects the cases in relation to which it is exercised-</p> <p>(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);</p> <p>(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;</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
	(iii) any such provision either unconditionally or subject to any conditions specified in the regulations.”.
Section 144A of the 1999 Act; as inserted by section 14(2) of the 2014 Act.	In subsection (3), immediately after “in relation to”, insert “the destruction of”.
Section 145 of the 1999 Act; as amended by section 128(2) of the 2002 Act.	In subsections (1), (2A) and (3), for “specified” wherever that expression occurs, substitute “prescribed”.  For subsection (4), substitute the following subsection –  “(4) “Prescribed” means prescribed by regulations made by the States of Guernsey Committee for Home Affairs.”.  For subsection (6), substitute the following subsection –  “(6) “Code” means any code of practice for the time being in force under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 or the Police and Criminal Evidence Act 1984.”.  Omit subsection (7).
Section 146 of the 1999 Act; as amended by section 153(2) of the 2002 Act; section 4 of, and paragraph 5 of Schedule 1 to, the 2014 Act.	For subsection (2), substitute the following subsection –  “(2) Without limiting the generality of subsection (1), a person exercising a power under any of the following may if necessary use reasonable force—  (a) section 141 or 142 of this Act, or  (b) regulations under section 144 of this Act.”.

SCHEDULE 1A

Article 2

Provisions of the Immigration and Asylum Act 1999 as extended to Guernsey

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*Provision as extended to Guernsey*

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**144 Other methods of collecting data about physical characteristics**

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*Provision as extended to Guernsey*

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(1) The States of Guernsey Committee for Home Affairs may make regulations containing provisions equivalent to sections 141, 142 and 143 in relation to such other methods of collecting biometric information as may be prescribed.

(2) “Biometric information” has the meaning given by section 15 of the UK Borders Act 2007.

(3) 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.

(4) 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.

**144A Use and retention of fingerprints etc**

(1) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to —

(a) fingerprints taken by virtue of section 141, and

(b) biometric information taken by virtue of regulations under section 144,

as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act.

(2) Regulations made by virtue of subsection (1)(a) must require fingerprints taken from a person (“F”) by virtue of section 141(7)(f) to be destroyed when fingerprints taken from the person whose dependant F is are destroyed.

(3) Regulations made by virtue of subsection (1)(b) must make equivalent provision in relation to the destruction of biometric information taken by virtue of any provision of regulations under section 144 which is equivalent to section 141(7)(f).

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*Provision as extended to Guernsey*

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**145 Codes of practice**

(1) An immigration officer exercising any prescribed power to—

(a) arrest, question, search or take fingerprints from a person,

(b) enter and search premises, or

(c) seize property found on persons or premises,

must have regard to such provisions of a code as may be prescribed.

(2) Subsection (1) also applies to an authorised person exercising the power to take fingerprints conferred by section 141.

(2A) A person exercising a power under regulations made by virtue of section 144 must have regard to such provisions of a code as may be prescribed.

(3) Any prescribed provision of a code may have effect for the purposes of this section subject to such modifications as may be prescribed.

(4) “Prescribed” means prescribed by regulations made by the States of Guernsey Committee for Home Affairs.

(5) “Authorised person” has the same meaning as in section 141.

(6) “Code” means any code of practice for the time being in force under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 or the Police and Criminal Evidence Act 1984.

**146 Use of force**

(1) An immigration officer exercising any power conferred on him by the Immigration Acts may, if necessary, use reasonable force.

(2) Without limiting the generality of subsection (1), a person exercising a power under any of the following may if necessary use reasonable force—

(a) section 141 or 142 of this Act, or

(b) regulations under section 144 of this Act.

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## SCHEDULE 2

Article 3

## Extension and modification of provisions of the Nationality, Immigration and Asylum Act 2002

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 126 of the 2002 Act; as amended by sections 8, 12(4), 14(3) and 73 of, paragraph 3(1) of Schedule 2 to, and paragraph 19 of Part 3 of Schedule 9 to, the 2014 Act.	<p>In subsection (1), for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs”.</p> <p>In subsection (2) –</p> <p>(a) in paragraphs (b) and (c), for “United Kingdom”, substitute “Bailiwick of Guernsey”,</p> <p>(b) at the end of paragraph (b), insert “or”, and</p> <p>(c) omit paragraphs (d) and (e).</p> <p>Omit subsection (2A).</p> <p>In subsection (4) –</p> <p>(a) in paragraph (f), for “Secretary of State” substitute “prescribed authority”, and</p> <p>(b) omit paragraphs (h) and (i).</p> <p>Omit subsection (8).</p> <p>Immediately after subsection (8A), insert the following subsections –</p> <p>“(8B) Regulations under this Act—</p> <p>(a) may be amended or repealed by subsequent regulations made under this Act,</p> <p>(b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and</p> <p>(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.</p>



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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
	<p>(8C) Any power conferred by this Act to make regulations may be exercised—</p> <p>(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;</p> <p>(b) so as to make, as respects the cases in relation to which it is exercised—</p> <p>(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);</p> <p>(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;</p> <p>(iii) any such provision either unconditionally or subject to any conditions specified in the regulations.”.</p> <p>In subsection (9) –</p> <p>(a) in the definition of “code”, for “that Act”, substitute “the Immigration and Asylum Act 1999”,</p> <p>(b) in the definition of “entry clearance”, for “that Act”, substitute “the Immigration Act 1971”, and</p> <p>(c) insert, in the appropriate alphabetical order, the following definition –</p> <p>““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.”.</p> <p>Immediately after subsection (9), insert the following subsection –</p> <p>“(9A) The States of Guernsey Committee for Home Affairs may make regulations to prescribe any person as an authorised person.”.</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 127 of the 2002 Act; as amended by section 12(4) of, and paragraph 4 of Schedule 2 to, the 2014 Act.	<p>In subsection (1) –</p> <p>(a) for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs”, and</p> <p>(b) for “United Kingdom”, substitute “Bailiwick of Guernsey”.</p> <p>In subsection (2), for “Secretary of State”, substitute “Committee”.</p>
Section 164 of the 2002 Act	

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.

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*Provision as extended to Guernsey*

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(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);

(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—

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*Provision as extended to Guernsey*

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(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—

“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;

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*Provision as extended to Guernsey*

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(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.

SCHEDULE 3

Article 4

Extension and modification of provisions of the UK Borders Act 2007

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 5 of the 2007 Act	<p>In subsection (1), for “Secretary of State”, substitute “Committee”.</p> <p>In subsection (2)(g), (h) and (i), for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”.</p> <p>In subsection (3) –</p> <p>(a) for “Secretary of State”, wherever that expression occurs, substitute “prescribed authority”, and</p> <p>(b) for “United Kingdom” wherever that expression occurs, substitute “Bailiwick of Guernsey”.</p> <p>In subsection (4) –</p> <p>(a) for “Secretary of State”, substitute “prescribed authority”, and</p> <p>(b) in paragraph (d), for “United Kingdom”, substitute “Bailiwick of Guernsey” and immediately after “(immigration rules)” insert “or directions under section 3A or 3B of that Act”.</p> <p>In subsection (5) –</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 6 of the 2007 Act	<p>(a) for “Secretary of State”, wherever that expression occurs, substitute “prescribed authority”, and</p> <p>(b) in paragraph (d), for “Secretary of State’s”, substitute “prescribed authority’s”.</p> <p>In subsection (9) –</p> <p>(a) immediately after “(c 77)”, insert “or directions under section 3A or 3B of that Act”, and</p> <p>(b) for “Secretary of State”, substitute “prescribed authority”.</p> <p>Omit subsection (10).</p> <p>In subsection (4), immediately after “(immigration rules)”, insert “or directions under section 3A or 3B of that Act”.</p> <p>In subsection (5), for “Secretary of State’s”, substitute “prescribed authority’s”.</p> <p>Omit subsection (6).</p>
Section 7 of the 2007 Act; as amended by section 11 of the 2014 Act	<p>In subsection (2) –</p> <p>(a) in paragraph (c), for “United Kingdom”, substitute “Bailiwick of Guernsey”, and</p> <p>(b) in paragraphs (d) and (e), for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”.</p> <p>In subsection (3), for “Secretary of State”, substitute “prescribed authority”.</p>
Section 8 of the 2007 Act; as substituted by section 14(1) of the 2014 Act	<p>In subsection (1) –</p> <p>(a) for “Secretary of State” the first time that expression occurs, substitute “Committee”, and</p> <p>(b) for “Secretary of State” the second time that expression occurs, substitute “prescribed authority”.</p> <p>In subsection (2), for “Secretary of State”, substitute “prescribed authority”.</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
	<p>In subsection (3)(b), for “Secretary of State”, substitute “prescribed authority”.</p> <p>In subsection (5) –</p> <p>(a) for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”, and</p> <p>(b) in paragraph (b), for “United Kingdom”, substitute “Bailiwick of Guernsey”.</p> <p>In subsections (6)(b) and (8)(a) and (b), for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”.</p> <p>Omit subsection (9).</p>
Section 9 of the 2007 Act	<p>In subsection (1) –</p> <p>(a) for “Secretary of State”, substitute “Committee”, and</p> <p>(b) immediately after “pay a”, insert “civil”.</p> <p>In subsection (2)(b) and (d), for “Secretary of State” wherever that expression occurs, substitute “Committee”.</p> <p>In subsection (3), for “£1,000”, substitute –</p> <p>“_</p> <p>(a) £1,000, or</p> <p>(b) any other amount that may be prescribed by order of the Lieutenant Governor to reflect a change in the value of money.”.</p> <p>For subsection (6), substitute the following subsection –</p> <p>“(6) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an order under subsection (3) (b).”.</p>
Section 10 of the 2007 Act	<p>In subsections (1), (3) and (4), for “Secretary of State” wherever that expression occurs, substitute “Committee”.</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 11 of the 2007 Act	<p>In subsection (1), for “–” and paragraphs (a) and (b), substitute “the Court”.</p> <p>In subsection (3), for “court or sheriff”, wherever that expression occurs, substitute “Court”.</p> <p>In subsection (4)(b), for “Secretary of State’s”, substitute “Committee’s”.</p> <p>In subsection (5), for “court or sheriff” and “Secretary of State” respectively, substitute “Court” and “Committee”.</p> <p>In subsection (6), immediately after “section”, insert “, but in the absence of such rules, an appeal must be brought within 28 days of P being given the penalty notice under section 9(1)”.</p> <p>Immediately after subsection (6), insert the following subsection –</p> <p>“(7) In this section, “the Court”, in relation to any appeal, means–</p> <p>(a) if the appellant is ordinarily resident in Alderney, the Court of Alderney,</p> <p>(b) if the appellant is ordinarily resident in Sark, the Court of the Seneschal, and</p> <p>(c) in any other case, the Royal Court of Guernsey.”.</p>
Section 12 of the 2007 Act	<p>In subsections (1), (2), (3) and (5), for “Secretary of State” wherever that expression occurs, substitute “Committee”.</p> <p>In subsection (5), for “Consolidated Fund”, substitute “general revenue account of the States of Guernsey”.</p>
Section 13 of the 2007 Act	<p>In subsection (1), for “Secretary of State shall”, substitute “Committee may”.</p> <p>In subsection (2), for “Secretary of State”, substitute “Committee”.</p> <p>In subsection (3), delete “or the sheriff”.</p>



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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 14 of the 2007 Act	<p>In subsection (4), for “Secretary of State”, substitute “Committee”.</p> <p>In subsection (5) –</p> <p>(a) for “Secretary of State”, substitute “Committee”, and</p> <p>(b) omit paragraph (c).</p> <p>In subsection (1), for “Secretary of State by order”, substitute “Committee by regulations”.</p> <p>For subsections (2) and (3), substitute the following subsections –</p> <p>“(2) Regulations under this Act–</p> <p>(a) may be amended or repealed by subsequent regulations made under this Act,</p> <p>(b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and</p> <p>(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.</p> <p>(3) Any power conferred by this Act to make regulations may be exercised –</p> <p>(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;</p> <p>(b) so as to make, as respects the cases in relation to which it is exercised–</p> <p>(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);</p> <p>(ii) the same provision for all cases, or different provision for different cases or classes of cases,</p>

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<i>Provision</i>	<i>Modifications</i>
	<p>or different provision for the same case or class of case for different purposes;</p> <p>(iii) any such provision either unconditionally or subject to any conditions specified in the regulations.”.</p>
Section 15 of the 2007 Act; as amended by section 12(2) and (3) of the 2014 Act;	<p>In subsection (1) –</p> <p>(a) for “section 5”, substitute “this Act”,</p> <p>(b) in paragraph (a), for “United Kingdom”, substitute “Bailiwick of Guernsey”,</p> <p>(c) immediately after paragraph (e), insert the following paragraphs –</p> <p>“(ea) “the Committee” means the States of Guernsey Committee for Home Affairs,</p> <p>(eb) “prescribed authority” means the Committee, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations,”, and</p> <p>(d) in paragraph (g), for “the Secretary of State” wherever that expression occurs, substitute “a prescribed authority”.</p> <p>In subsection (1A) –</p> <p>(a) for “section 5”, substitute “this Act”, and</p> <p>(b) in paragraph (b), for “specified in an order made by the Secretary of State”, substitute “prescribed by regulations made by the Committee”.</p> <p>In subsection (1B), for “An order”, substitute “Regulations”.</p> <p>Omit subsection (1C).</p> <p>In subsection (2) –</p> <p>(a) for “–” and paragraphs (a) and (b), substitute “sections 67A, 67B, 67C and 68 of the Immigration Act 2014;”, and</p> <p>(b) for “either”, substitute “any”.</p>
Section 61 of the 2007 Act	<p>In subsection (2) –</p>

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
	(a) omit paragraphs (c), (g) and (k), and  (b) after paragraph (j), omit “and” and insert “to the extent that those enactments are extended (with modifications, if any) to the Bailiwick of Guernsey.”.  Omit subsections (3) and (4).

SCHEDULE 3A

Article 4

Provisions of the UK Borders Act 2007 as extended to Guernsey

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*Provision as extended to Guernsey*

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**5 Registration regulations**

(1) The Committee may make regulations—

(a) requiring a person subject to immigration control to apply for the issue of a document recording biometric information (a “biometric immigration document”);

(b) requiring a biometric immigration document to be used—

(i) for specified immigration purposes;

(ii) in connection with specified immigration procedures; or

(iii) in specified circumstances, where a question arises about a person’s status in relation to nationality or immigration;

(c) requiring a person who produces a biometric immigration document by virtue of paragraph (b) to provide information for comparison with information provided in connection with the application for the document.

(2) Regulations under subsection (1)(a) may, in particular—

(a) apply generally or only to a specified class of persons subject to immigration control (for example, persons making or seeking to make a specified kind of application for immigration purposes);

(b) specify the period within which an application for a biometric immigration document must be made;

(c) make provision about the issue of biometric immigration documents;

(d) make provision about the content of biometric immigration documents (which may include non-biometric information);

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*Provision as extended to Guernsey*

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- (e) make provision permitting a biometric immigration document to be combined with another document;
  - (f) make provision for biometric immigration documents to begin to have effect, and cease to have effect, in accordance with the regulations;
  - (g) require a person who acquires a biometric immigration document, without the consent of the person to whom it relates or of the prescribed authority, to surrender it to the prescribed authority as soon as is reasonably practicable;
  - (h) permit the prescribed authority to require the surrender of a biometric immigration document in other specified circumstances;
  - (i) permit the prescribed authority on issuing a biometric immigration document to require the surrender of other documents connected with immigration or nationality.
- (3) Regulations under subsection (1)(a) may permit the prescribed authority to cancel a biometric immigration document—
- (a) if the prescribed authority thinks that information provided in connection with the document was or has become false, misleading or incomplete,
  - (b) if the prescribed authority thinks that the document has been lost or stolen,
  - (c) if the prescribed authority thinks that the document (including any information recorded in it) has been altered, damaged or destroyed (whether deliberately or not),
  - (d) if the prescribed authority thinks that an attempt has been made (whether successfully or not) to copy the document or to do anything to enable it to be copied,
  - (e) if the prescribed authority thinks that a person has failed to surrender the document in accordance with subsection (2)(g) or (h),
  - (f) if the prescribed authority thinks that the document should be re-issued (whether because the information recorded in it requires alteration or for any other reason),
  - (g) if the prescribed authority thinks that the holder is to be given leave to enter or remain in the Bailiwick of Guernsey,
  - (h) if the prescribed authority thinks that the holder's leave to enter or remain in the Bailiwick of Guernsey is to be varied, cancelled or invalidated or to lapse,
  - (i) if the prescribed authority thinks that the holder has died,
  - (j) if the prescribed authority thinks that the holder has been removed from the Bailiwick of Guernsey (whether by deportation or otherwise),
  - (k) if the prescribed authority thinks that the holder has left the Bailiwick of Guernsey without retaining leave to enter or remain, and
  - (l) in such other circumstances as the regulations may specify.

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*Provision as extended to Guernsey*

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(4) Regulations under subsection (1)(a) may require notification to be given to the prescribed authority by the holder of a biometric immigration document—

- (a) who knows or suspects that the document has been lost or stolen,
- (b) who knows or suspects that the document has been altered or damaged (whether deliberately or not),
- (c) who knows or suspects that information provided in connection with the document was or has become false, misleading or incomplete,
- (d) who was given leave to enter or remain in the Bailiwick of Guernsey in accordance with a provision of rules under section 3 of the Immigration Act 1971 (c 77) (immigration rules) or directions under section 3A or 3B of that Act 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
- (e) in such other circumstances as the regulations may specify.

(5) Regulations under subsection (1)(a) may require a person applying for the issue of a biometric immigration document to provide information (which may include biographical or other non-biometric information) to be recorded in it or retained by the prescribed authority; and, in particular, the regulations may—

- (a) require, or permit an authorised person to require, the provision of information in a specified form;
- (b) require an individual to submit, or permit an authorised person to require an individual to submit, to a specified process by means of which biometric information is obtained or recorded;
- (c) confer a function (which may include the exercise of a discretion) on an authorised person;
- (d) permit the prescribed authority, instead of requiring the provision of information, to use or retain information which is (for whatever reason) already in the prescribed authority's possession.

(6) Regulations under subsection (1)(b) may, in particular, require the production or other use of a biometric immigration document that is combined with another document.

(7) Regulations under subsection (1)(b) may not make provision the effect of which would be to require a person to carry a biometric immigration document at all times.

(8) Regulations under subsection (1)(c) may, in particular, make provision of a kind specified in subsection (5)(a) or (b).

(9) Rules under section 3 of the Immigration Act 1971 (c 77) or directions under section 3A or 3B of that Act 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 prescribed authority.

**6 Regulations: supplemental**

(1) This section applies to regulations under section 5(1).

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(2) Regulations amending or replacing earlier regulations may require a person who holds a biometric immigration document issued under the earlier regulations to apply under the new regulations.

(3) In so far as regulations require an individual under the age of 16 to submit to a process for the recording of biometric information, or permit an authorised person to require an individual under the age of 16 to submit to a process of that kind, the regulations must make provision similar to section 141(3) to (5) and (13) of the Immigration and Asylum Act 1999 (c. 33) (fingerprints: children).

(4) Rules under section 3 of the Immigration Act 1971 (immigration rules) or directions under section 3A or 3B of that Act may make provision by reference to compliance or non-compliance with regulations.

(5) Information in the prescribed authority's possession which is used or retained in accordance with regulations under section 5(5)(d) shall be treated, for the purpose of requirements about treatment and destruction, as having been provided in accordance with the regulations at the time at which it is used or retained in accordance with them.

### **7 Effect of non-compliance**

(1) Regulations under section 5(1) must include provision about the effect of failure to comply with a requirement of the regulations.

(2) In particular, the regulations may—

(a) require or permit an application for a biometric immigration document to be refused;

(b) require or permit an application or claim in connection with immigration to be disregarded or refused;

(c) require or permit the cancellation or variation of leave to enter or remain in the Bailiwick of Guernsey;

(d) require the prescribed authority to consider giving a notice under section 9;

(e) provide for the consequence of a failure to be at the discretion of the prescribed authority.

(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.

(3) The regulations may also permit the prescribed authority to designate an adult as the person responsible for ensuring that a child complies with requirements of the regulations; and for that purpose—

(a) “adult” means an individual who has attained the age of 18,

(b) “child” means an individual who has not attained the age of 18, and

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*Provision as extended to Guernsey*

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(c) sections 9 to 13 shall apply (with any necessary modifications) to a designated adult's failure to ensure compliance by a child with a requirement of regulations as they apply to a person's own failure to comply with a requirement.

## **8 Use and retention of biometric information**

(1) The Committee must by regulations make provision about the use and retention by the prescribed authority of biometric information provided in accordance with regulations under section 5(1).

(2) The regulations must provide that biometric information may be retained only if the prescribed authority thinks that it is necessary to retain it for use in connection with—

(a) the exercise of a function by virtue of the Immigration Acts, or

(b) the exercise of a function in relation to nationality.

(3) The regulations may include provision permitting biometric information retained by virtue of subsection (2) also to be used—

(a) in connection with the prevention, investigation or prosecution of an offence,

(b) for a purpose which appears to the prescribed authority to be required in order to protect national security,

(c) in connection with identifying persons who have died, or are suffering from illness or injury,

(d) for the purpose of ascertaining whether a person has acted unlawfully, or has obtained or sought anything to which the person is not legally entitled, and

(e) for such other purposes (whether in accordance with functions under an enactment or otherwise) as the regulations may specify.

(4) The regulations must include provision about the destruction of biometric information.

(5) In particular the regulations must require the prescribed authority to take all reasonable steps to ensure that biometric information is destroyed if the prescribed authority—

(a) no longer thinks that it is necessary to retain the information for use as mentioned in subsection (2), or

(b) is satisfied that the person to whom the information relates is a British citizen, or a Commonwealth citizen who has a right of abode in the Bailiwick of Guernsey as a result of section 2(1)(b) of the Immigration Act 1971.

(6) The regulations must also—

(a) require that any requirement to destroy biometric information by virtue of the regulations also applies to copies of the information, and

(b) require the prescribed authority to take all reasonable steps to ensure—

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- (i) that data held in electronic form which relates to biometric information which has to be destroyed by virtue of the regulations is destroyed or erased, or
  - (ii) that access to such data is blocked.
- (7) But a requirement to destroy biometric information or data is not to apply if and in so far as the information or data is retained in accordance with and for the purposes of another power.
- (8) The regulations must include provision—
- (a) entitling a person whose biometric information has to be destroyed by virtue of the regulations, on request, to a certificate issued by the prescribed authority to the effect that the prescribed authority has taken the steps required by virtue of subsection (6)(b); and
  - (b) requiring such a certificate to be issued within the period of 3 months beginning with the date on which the request for it is received by the prescribed authority.

**9 Penalty**

- (1) The Committee may by notice require a person to pay a civil penalty for failing to comply with a requirement of regulations under section 5(1).
- (2) The notice must—
- (a) specify the amount of the penalty,
  - (b) specify a date before which the penalty must be paid to the States of Guernsey,
  - (c) specify methods by which the penalty may be paid,
  - (d) explain the grounds on which the Committee thinks the person has failed to comply with a requirement of the regulations, and
  - (e) explain the effect of sections 10 to 12.
- (3) The amount specified under subsection (2)(a) may not exceed –
- (a) £1,000, or
  - (b) any other amount that may be prescribed by order of the Lieutenant Governor to reflect a change in the value of money.
- (4) The date specified under subsection (2)(b) must be not less than 14 days after the date on which the notice is given.
- (5) A person who has been given a notice under subsection (1) for failing to comply with regulations may be given further notices in the case of continued failure; but a person may not be given a new notice—
- (a) during the time available for objection or appeal against an earlier notice, or



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(b) while an objection or appeal against an earlier notice has been instituted and is neither withdrawn nor determined.

(6) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an order under subsection (3)(b).

**10 Penalty: objection**

(1) A person (P) who is given a penalty notice under section 9(1) may by notice to the Committee object on the grounds—

(a) that P has not failed to comply with a requirement of regulations under section 5(1),

(b) that it is unreasonable to require P to pay a penalty, or

(c) that the amount of the penalty is excessive.

(2) A notice of objection must—

(a) specify the grounds of objection and P's reasons,

(b) comply with any prescribed requirements as to form and content, and

(c) be given within the prescribed period.

(3) The Committee shall consider a notice of objection and—

(a) cancel the penalty notice,

(b) reduce the penalty by varying the penalty notice,

(c) increase the penalty by issuing a new penalty notice, or

(d) confirm the penalty notice.

(4) The Committee shall act under subsection (3) and notify P—

(a) in accordance with any prescribed requirements, and

(b) within the prescribed period or such longer period as the Committee and P may agree.

**11 Penalty: appeal**

(1) A person (P) who is given a penalty notice under section 9(1) may appeal to the Court.

(2) An appeal may be brought on the grounds—

(a) that P has not failed to comply with a requirement of regulations under section 5(1),

(b) that it is unreasonable to require P to pay a penalty, or

(c) that the amount of the penalty is excessive.

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(3) The Court may—

- (a) cancel the penalty notice,
- (b) reduce the penalty by varying the penalty notice,
- (c) increase the penalty by varying the penalty notice (whether because the Court thinks the original amount insufficient or because the Court thinks that the appeal should not have been brought), or
- (d) confirm the penalty notice.

(4) An appeal may be brought—

- (a) whether or not P has given a notice of objection, and
- (b) irrespective of the Committee’s decision on any notice of objection.

(5) The Court may consider matters of which the Committee was not and could not have been aware before giving the penalty notice.

(6) Rules of court may make provision about the timing of an appeal under this section, but in the absence of such rules, an appeal must be brought within 28 days of P being given the penalty notice under section 9(1).

(7) In this section, “the Court”, in relation to any appeal, means –

- (a) if the appellant is ordinarily resident in Alderney, the Court of Alderney,
- (b) if the appellant is ordinarily resident in Sark, the Court of the Seneschal, and
- (c) in any other case, the Royal Court of Guernsey.

**12 Penalty: enforcement**

(1) Where a penalty has not been paid before the date specified in the penalty notice in accordance with section 9(2)(b), it may be recovered as a debt due to the Committee.

(2) Where a notice of objection is given in respect of a penalty notice, the Committee may not take steps to enforce the penalty notice before—

- (a) deciding what to do in response to the notice of objection, and
- (b) informing the objector.

(3) The Committee may not take steps to enforce a penalty notice while an appeal under section 11—

- (a) could be brought (disregarding any possibility of an appeal out of time with permission), or
- (b) has been brought and has not been determined or abandoned.

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*Provision as extended to Guernsey*

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(4) In proceedings for the recovery of a penalty no question may be raised as to the matters specified in sections 10 or 11 as grounds for objection or appeal.

(5) Money received by the Committee in respect of a penalty must be paid into the general revenue account of the States of Guernsey.

**13 Penalty: code of practice**

(1) The Committee may issue a code of practice setting out the matters to be considered in determining—

(a) whether to give a penalty notice under section 9(1), and

(b) the amount of a penalty.

(2) The code may, in particular, require the Committee to consider any decision taken by virtue of section 7.

(3) A court shall, when considering an appeal under section 11, have regard to the code.

(4) The Committee may revise and re-issue the code.

(5) Before issuing or re-issuing the code the Committee must—

(a) publish proposals, and

(b) consult members of the public.

[...]

(6) The code (or re-issued code) comes into force at the prescribed time.

**14 Penalty: prescribed matters**

(1) In sections 10 to 13, “prescribed” means prescribed by the Committee by regulations.

(2) 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.

(3) 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-

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- (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.

## **15 Interpretation**

(1) For the purposes of this Act —

(a) “person subject to immigration control” means a person who under the Immigration Act 1971 (c 77) requires leave to enter or remain in the Bailiwick of Guernsey (whether or not such leave has been given),

[...]

(d) “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),

(e) “authorised person” has the meaning given by section 141(5) of the Immigration and Asylum Act 1999 (c. 33) (authority to take fingerprints),

(ea) “the Committee” means the States of Guernsey Committee for Home Affairs,

(eb) “prescribed authority” means the Committee, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations,

(f) “immigration” includes asylum, and

(g) regulations permitting something to be done by a prescribed authority may (but need not) permit it to be done only where a prescribed authority is of a specified opinion.

(1A) For the purposes of this Act “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 prescribed by regulations made by the Committee.

(1B) Regulations under subsection (1A)(b)—

(a) may prescribe only information that can be obtained or recorded by an external examination of a person, and

(b) must not prescribe information about a person’s DNA.

[...]

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*Provision as extended to Guernsey*

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(2) An application for a biometric immigration document is an application in connection with immigration for the purposes of sections 67A, 67B, 67C and 68 of the Immigration Act 2014; and in the application of any 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.

**61 Citation**

(1) This Act may be cited as the UK Borders Act 2007.

(2) A reference (in any enactment, including one passed or made before this Act) to “the Immigration Acts” is to –

(a) the Immigration Act 1971 (c 77),

(b) the Immigration Act 1988 (c 14),

[...]

(d) the Asylum and Immigration Act 1996 (c 49),

(e) the Immigration and Asylum Act 1999 (c 33),

(f) the Nationality, Immigration and Asylum Act 2002 (c 41),

[...]

(h) the Immigration, Asylum and Nationality Act 2006 (c 13),

(i) this Act, and

(j) the Immigration Act 2014,

to the extent that those enactments are extended (with modifications, if any) to the Bailiwick of Guernsey.

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SCHEDULE 4

Article 5

Extension and modification of provisions of the Immigration Act 2014

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 9 of the 2014 Act	
Section 12 of the 2014 Act	Omit subsections (1), (2) and (3).
Section 13 of the 2014 Act	In subsection (2) –  (a) in the new paragraph (7)(a) to be inserted in paragraph 4 of Schedule 2 to the Immigration

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 77 of the 2014 Act Schedule 2 to the 2014 Act	Act 1971 Act, for “chief”, substitute “senior”, and  (b) in the new paragraph (8)(a) to be inserted in paragraph 4 of Schedule 2 to the Immigration Act 1971 Act, for “officer of the Secretary of State”, substitute “officer responsible to the States of Guernsey Committee for Home Affairs”.  Omit paragraphs 2, 3, 4 and 5 of this schedule, including their headings.

SCHEDULE 4A

Article 5

Provisions of the Immigration Act 2014 as extended to Guernsey

*Provision as extended to Guernsey*

**9 Identifying persons liable to detention**

In paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take steps for identifying persons detained under paragraph 16 of that Schedule), after “detained” insert “or liable to be detained”.

**12 Meaning of “biometric information”**

[...]

(4) Schedule 2 (which amends other enactments) has effect.

**13 Safeguards for children**

(1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows.

(2) In paragraph 4 (power to take biometric information on examination), after sub-paragraph (6) (as inserted by paragraph 1(3) of Schedule 2) insert —

“(7) A person (“P”) who is under 16 may not be required to provide biometric information under sub-paragraph (5) unless—

(a) the decision to require P to provide the information has been confirmed by a senior immigration officer, and

(b) the information is provided in the presence of a person of full age who is—

(i) P’s parent or guardian, or

(ii) a person who for the time being takes responsibility for P.

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(8) The person mentioned in sub-paragraph (7)(b)(ii) may not be—

(a) a person who is entitled to require the provision of information under sub-paragraph (5) (an “authorised person”), or

(b) an officer responsible to the States of Guernsey Committee for Home Affairs who is not such a person.

(9) Sub-paragraph (7) does not prevent an authorised person requiring the provision of biometric information by a person the authorised person reasonably believes to be 16 or over.”

(3) In paragraph 18 (power to take biometric information from detained persons), after sub-paragraph (2A) insert —

“(2B) Paragraph 4(7) to (9) applies to sub-paragraph (2) as it applies to paragraph 4(5).”

**77 Short title**

This Act may be cited as the Immigration Act 2014.

**SCHEDULE 2**

**Meaning of Biometric Information**

Section 12

Immigration Act 1971 (c 77)

**1**

(1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows.

(2) In paragraph 4(5) —

(a) after “provide” insert “biometric”;

(b) omit from “about his external physical characteristics” to the end.

(3) After paragraph 4(5) insert —

“(6) “Biometric information” has the meaning given by section 15 of the UK Borders Act 2007.”

(4) In paragraph 18(2A), for “fingerprints”, substitute “biometric information (within the meaning given by section 15 of the UK Borders Act 2007)”.

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## SCHEDULE 5

Article 6

Extension and modification of provisions of the Immigration  
and Social Security Co-ordination (EU Withdrawal) Act 2020

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
The heading of Part 1 of the 2020 Act	
Section 1 of the 2020 Act	For this section, substitute—  <b>“1 Repeal of section 7 of the Immigration Act 1988</b>  Section 7 of the Immigration Act 1988 is repealed.”
Section 2 of the 2020 Act	In subsection (2), in section 3ZA that is inserted in the 1971 Act —  (a) for “United Kingdom” in each place the expression occurs, substitute “Bailiwick of Guernsey”, and  (b) for “Secretary of State” in each place the expression occurs, substitute “Lieutenant Governor”.  In subsection (4), in the reference to Schedule 4 to the 1971 Act, for “integration with UK law of immigration law of the Islands”, substitute “integration with Guernsey law of immigration laws of the United Kingdom, Jersey and the Isle of Man”.
Section 4 of the 2020 Act	In subsection (1) –  (a) omit paragraph (a), and  (b) in paragraph (b), for “(k)”, substitute “(j)”.  Omit subsection (2).
Section 5 of the 2020 Act	For subsection (1), substitute—  “(1) The States of Guernsey Committee for Home Affairs may by regulations make such provision as the committee considers appropriate in consequence of, or in connection with, any provision of this Part.”.  In subsection (2), for “—” and paragraphs (a) and (b), substitute “any provision extended or made by an Order in Council extending



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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
	legislation of the United Kingdom to the Bailiwick of Guernsey, or any direction, order, rule or other provision issued, given or otherwise made under any such provision, where the provision to be modified was made on or before the appointed day.”.
	In subsection (4)—
	(a) for “coming into force of the repeal of section 7(1) of the Immigration Act 1988 by paragraph 1 of Schedule 1”, substitute “appointed day”,
	(b) for “that Act”, substitute “the Immigration Act 1988”, and
	(c) for “United Kingdom”, substitute “Bailiwick of Guernsey”.
	In subsection (5), for “primary legislation passed before, or in the same Session as, this Act”, substitute “any of the Immigration Acts extended to the Bailiwick of Guernsey on or before the appointed day.”.
	For subsection (6), substitute the following subsection –
	“(6) Regulation under subsection (1) 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.”.
	Omit subsections (7), (8), (9) and (10).
The heading of Part 3 of the 2020 Act	
Section 7 of the 2020 Act	Insert this definition in the appropriate alphabetical order—
	““appointed day” means the day on which article 6 of the Immigration (Guernsey) Order 2020 comes into force;”.
	Omit the definitions of “domestic law”, “Minister of the Crown” and “primary legislation”.

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 10 of the 2020 Act	

SCHEDULE 5A

Article 6

Provisions of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 as extended to Guernsey

*Provision as extended to Guernsey*

**PART 1**

MEASURES RELATING TO ENDING FREE MOVEMENT

**1 Repeal of section 7 of the Immigration Act 1988**

Section 7 of the Immigration Act 1988 is repealed.

**2 Irish citizens: entitlement to enter or remain without leave**

(1) The Immigration Act 1971 is amended as follows.

(2) After section 3 insert —

**“3ZA Irish citizens**

(1) An Irish citizen does not require leave to enter or remain in the Bailiwick of Guernsey, unless subsection (2), (3) or (4) applies to that citizen.

(2) This subsection applies to an Irish citizen if the Irish citizen is subject to a deportation order made under section 5(1).

(3) This subsection applies to an Irish citizen if—

(a) the Lieutenant Governor has issued directions for the Irish citizen not to be given entry to the Bailiwick of Guernsey on the ground that the Irish citizen’s exclusion is conducive to the public good,

(b) the Lieutenant Governor has given the Irish citizen notice of the directions, and

(c) the directions have not been withdrawn.

(4) This subsection applies to an Irish citizen if the Irish citizen is an excluded person for the purposes of section 8B (persons excluded under certain instruments).

(5) Where subsection (2), (3) or (4) applies to an Irish citizen, section 1(3) does not permit the Irish citizen to enter the Bailiwick of Guernsey without leave on arriving in the Bailiwick of Guernsey on a local journey from any place in the common travel area.”

(3) In section 9 (further provisions about the common travel area)—

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*Provision as extended to Guernsey*

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- (a) in subsection (2), in the closing words, after “British citizens” insert “or Irish citizens”;
  - (b) in subsection (4), in the opening words, after “British citizen” insert “or an Irish citizen”.
- (4) In Schedule 4 (integration with Guernsey law of immigration laws of the United Kingdom, Jersey and the Isle of Man)—
- (a) in paragraph 1, in sub-paragraphs (1) and (2), after “British citizen” insert “or an Irish citizen”;
  - (b) in paragraph 4, after “British citizen” insert “or an Irish citizen”.

**4 Meaning of “the Immigration Acts” etc.**

(1) In section 61 of the UK Borders Act 2007, in subsection (2) (which defines “the Immigration Acts”) –

[...]

(b) after paragraph (j) insert “, and

“(1) Part 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (and Part 3 so far as relating to that Part).”

**5 Consequential etc. provision**

- (1) The States of Guernsey Committee for Home Affairs may by regulations make such provision as the committee considers appropriate in consequence of, or in connection with, any provision of this Part.
- (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision extended or made by an Order in Council extending legislation of the United Kingdom to the Bailiwick of Guernsey, or any direction, order, rule or other provision issued, given or otherwise made under any such provision, where the provision to be modified was made on or before the appointed day.
- (3) The power to make regulations under subsection (1) includes power—
  - (a) to make supplementary, incidental, transitional, transitory or saving provision;
  - (b) to make different provision for different purposes.
- (4) Regulations under subsection (1) may (among other things) make provision applying to persons who, immediately before the appointed day, were not entitled by virtue of section 7(1) of the Immigration Act 1988 to enter or remain in the Bailiwick of Guernsey without leave.
- (5) Regulations under subsection (1) may (among other things) modify provision relating to the imposition of fees or charges which is made by or under any of the Immigration Acts extended to the Bailiwick of Guernsey on or before the appointed day.
- (6) Regulation under subsection (1) 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

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*Provision as extended to Guernsey*

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them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

**PART 3**

GENERAL

**7 Interpretation**

In this Act —

“appointed day” means the day on which article 6 of the Immigration (Guernsey) Order 2020 comes into force; and

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly).

**10 Short title**

This Act may be cited as the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.

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**EXPLANATORY NOTE**

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

This Order extends the following provisions to the Bailiwick of Guernsey with modifications —

- (a) sections 144, 144A, 145 and 146 of the Immigration and Asylum Act 1999,
- (b) sections 126, 127 and 164 of the Nationality, Immigration and Asylum Act 2002,
- (c) sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 61(1) of the UK Borders Act 2007,
- (d) sections 9, 12(4), 13 and 77 of, and paragraph 1 of Schedule 2 to, the Immigration Act 2014, and
- (e) sections 1, 2, 4, 5, 7 and 10 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (“the 2020 Act”).

The provisions of the 2020 Act, as extended and modified —

- (a) repeal provisions relating to free movement of EEA citizens and their family members and bring them under Bailiwick immigration control,
- (b) protect the status of Irish citizens in Bailiwick immigration law once their EU free movement rights are ended in the United Kingdom, and
- (c) empower the States of Guernsey Committee for Home Affairs to make regulations to amend legislation in consequence of, or in connection with, the ending of free movement.

The provisions of the other Acts, as extended and modified, empower the States of Guernsey Committee for Home Affairs to make regulations to —

- (a) require or permit biometric information to be collected or provided,

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- (b) provide for biometric immigration documents to be issued and used for immigration and nationality purposes, and
- (c) provide for the implementation of a system of biometric registration.

These provisions also provide for safeguards in connection with the collection, use and retention of biometric information.