



Jersey

IMMIGRATION (BIOMETRIC INFORMATION) (JERSEY) ORDER 2018

Made by Her Majesty in Council

12th December 2018

Registered by the Royal Court

21st December 2018

In force

28th December 2018

HER MAJESTY, in exercise of the powers conferred upon Her by section 170(7) of the Immigration and Asylum Act 1999, section 163(4) of the Nationality, Immigration and Asylum Act 2002 and section 76(6) of the Immigration Act 2014, is pleased, by and with the advice of Her Privy Council, to order as follows:

1 Citation, commencement and interpretation

- (1) This Order may be cited as the Immigration (Biometric Information) (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 1999 Act” means the Immigration and Asylum Act 1999;
 - “the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;
 - “the 2014 Act” means the Immigration Act 2014;
 - “Jersey” means the Bailiwick of Jersey.
- (3) For the purposes of construing provisions of the 1999 Act, the 2002 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.

2 Extension of the 1999 Act to Jersey

Section 145 of the 1999 Act (Codes of practice) shall extend to Jersey subject to the modifications specified in Schedule 1 to this Order.

3 Extension of the 2002 Act to Jersey

The following provisions of the 2002 Act shall extend to Jersey –

- (a) sections 126 to 128 (Provision of information by traveller); and
- (b) section 164 (Short title),

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

4 Extension of the 2014 Act to Jersey

The following provisions of the 2014 Act shall extend to Jersey –

- (a) section 8 (Provision of biometric information with immigration applications);
- (b) section 14(3) (Use and retention of biometric information: amendment of section 126 of the 2002 Act);
- (c) paragraphs 3 and 4 of Schedule 2 (amendment of sections 126 and 127 of the 2002 Act); and
- (d) section 73(6) and paragraph 19 of Schedule 9 (Transitional and consequential provision),

subject to the modifications, if any, specified in Schedule 3 to this Order.

Consequential amendments**5**

In the Schedule to the Immigration and Asylum Act 1999 (Jersey) Order 2003¹, the entry relating to section 144 of the 1999 Act (other methods of collecting data about physical characteristics) is omitted.

6

In Schedule 2 to the Immigration (Biometric Registration) (Jersey) Order 2018² in paragraph 3, in sub-paragraph (a)(ii) and sub-paragraph (b) for “ “directions” ” substitute “ “Orders” ”.

RICHARD TILBROOK

Clerk of the Privy Council

SCHEDULE 1

(Article 2)

**MODIFICATIONS OF SECTION 145 OF THE IMMIGRATION AND
ASYLUM ACT 1999 AS IT EXTENDS TO JERSEY****1**

In section 145 (Codes of practice) –

- (a) in subsection (4) for “Secretary of State” substitute “Minister”;
- (b) for subsection (6) substitute –
 - “(6) “Code” means any code of practice for the time being in force under the Police Procedures and Criminal Evidence (Jersey) Law 2003³.”;
- (c) omit subsection (7).

SCHEDULE 2

(Article 3)

**MODIFICATIONS OF SECTIONS 126, 127 AND 128 OF THE
NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002 AS THEY
EXTEND TO JERSEY****1**

In section 126 (Physical data: compulsory provision) –

- (a) in subsection (1) for “Secretary of State may by regulations” substitute “States may by Regulations”;
- (b) in subsection (2) for “the United Kingdom” in both places it occurs substitute “Jersey”;
- (c) in subsection (4)(f) for “Secretary of State” substitute “Minister”;
- (d) in subsection (7) for “regulations” in both places it occurs substitute “Regulations”;
- (e) omit subsection (8);
- (f) in subsection (9) after the definition of “entry clearance” insert –
 - “ “Jersey” means the Bailiwick of Jersey, and
 - “Minister” means the Minister for Home Affairs.”.

2

In section 127 (Physical data: voluntary provision) –

- (a) in subsection (1) for “the United Kingdom” substitute “Jersey”;
- (b) in subsections (1) and (2) for “Secretary of State” substitute “Minister”.

3

In section 128 (Data collection under Immigration and Asylum Act 1999) –

- (a) for subsection (1) substitute –
 - “(1) For section 144 of the Immigration and Asylum Act 1999 (c. 33) (collection of data about external physical characteristics) substitute –
 - “144 Power to make provision about other biometric information**
 - (1) The Minister may make Orders 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.”.”;
- (b) in subsection (2) (in the inserted subsection (2A)) for “regulations” substitute “an Order”.

SCHEDULE 3

(Article 4)

**MODIFICATIONS OF SECTIONS 8 AND 14(3) OF, AND SCHEDULE 2 TO,
THE IMMIGRATION ACT 2014 AS THEY EXTEND TO JERSEY****1**

In section 8 (Provision of biometric information with immigration applications) in subsection (2) –

- (a) omit the inserted paragraph (d);
- (b) in the inserted paragraph (e) –
 - (i) for “the United Kingdom” substitute “Jersey”;
 - (ii) after “section 2(2) of the European Communities Act 1972” insert “or Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014⁴”.

2

In section 14(3) (Use and retention of biometric information) in the inserted subsection (8A) for “regulations” in both places it occurs substitute “Regulations”.

3

In paragraph 4 of Schedule 2 (amendment of section 127 of the Nationality, Immigration and Asylum Act 2002) in subparagraph (4) –

- (a) in paragraph (a) omit “and”;
- (b) omit paragraph (b); and
- (c) for paragraph (c) substitute –
 - “(c) for paragraph (c) substitute –
 - “(c) “Jersey”, and
 - (d) “Minister”.”

IMMIGRATION AND ASYLUM ACT 1999

(1999 c. 33)

ARRANGEMENT OF SECTIONS

PARTS I–VI

* * * * *

PART VII

POWER TO ARREST, SEARCH AND FINGERPRINT

128–143 * * * * *

Fingerprinting

[144 Power to make provision about other biometric information]

Codes of practice

145 Codes of practice

Use of force

146 * * * * *

PARTS VIII–X

* * * * *

SCHEDULES: * * * * *

ELIZABETH II



IMMIGRATION AND ASYLUM ACT 1999

1999 CHAPTER 33

AN ACT to make provision about immigration and asylum; to make provision about procedures in connection with marriage on superintendent registrar's certificate; and for connected purposes.

[11th November 1999]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows⁵ –

PARTS I–VI

* * * * *

PART VII

POWER TO ARREST, SEARCH AND FINGERPRINT

128–143 * * * * *

Fingerprinting

[144 Power to make provision about other biometric information

- (1) The Minister may make Orders 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.]

Codes of practice

145 Codes of practice

- (1) An immigration officer exercising any specified 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 specified.
- (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 [an Order] made by virtue of section 144 must have regard to such provisions of a code as may be specified.]
- (3) Any specified provision of a code may have effect for the purposes of this section subject to such modifications as may be specified.
- (4) “Specified” means specified in a direction given by the [Minister].
- (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 Procedures and Criminal Evidence (Jersey) Law 2003⁶.]
- (7) * * * * *

Use of force

146 * * * * *

PARTS VIII–X

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SCHEDULES

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NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

(2002 c. 41)

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IMMIGRATION PROCEDURE

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164 Short title

SCHEDULES

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ELIZABETH II



NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002

2002 CHAPTER 41

AN ACT to make provision about nationality, immigration and asylum; to create offences in connection with international traffic in prostitution; to make provision about international projects connected with migration; and for connected purposes.

[7th November 2002]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows⁷ –

PARTS 1–5

* * * * *

PART 6

IMMIGRATION PROCEDURE

118–125 * * * * *

Provision of information by traveller

126 Physical data: compulsory provision

- (1) The [States 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 [Jersey], * *
 - (c) variation of leave to enter or remain in [Jersey],
 - [(d) * * * * *]
 - (e) a document issued as evidence that a person who is not a national of an EEA state or Switzerland is entitled to enter or remain in [Jersey] by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972 [or Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014⁸].]
- (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.
- (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 [Minister];
 - [(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;]
 - (g) * * * * *
 - (h) make provision which applies generally or only in specified cases or circumstances;

-
- (i) make different provision for different cases or circumstances.
- (5) * * * * *
- (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).
- (8) * * * * *
- [(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.]
- (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 that Act (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 that Act, * *
- [“Jersey” means the Bailiwick of Jersey, and
- “Minister” means the Minister for Home Affairs.]
- * * * * *

127 Physical data: voluntary provision

- (1) The [Minister] 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 [Jersey].
- (2) In particular, the [Minister] 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);
 - (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”, * *]
 - (b) “code”, and
 - [(c) “Jersey”, and
 - (d) “Minister”].

128 Data collection under Immigration and Asylum Act 1999

[See sections 144 and 145(2A) of the Immigration and Asylum Act 1999.]

129–142 * * * * *

PART 7

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PART 8

GENERAL

157–163 * * * * *

164 Short title

This Act may be cited as the Nationality, Immigration and Asylum Act 2002.

SCHEDULES

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IMMIGRATION ACT 2014

(2014 c. 22)

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ELIZABETH II



IMMIGRATION ACT 2014

2014 CHAPTER 22

AN ACT to make provision about immigration law; to limit, or otherwise make provision about, access to services, facilities and employment by reference to immigration status; to make provision about marriage and civil partnership involving certain foreign nationals; to make provision about the acquisition of citizenship by persons unable to acquire it because their fathers and mothers were not married to each other and provision about the removal of citizenship from persons whose conduct is seriously prejudicial to the United Kingdom's vital interests; and for connected purposes.

[14th May 2014]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows⁹ –

PART 1

REMOVAL AND OTHER POWERS

1–7 * * * * *

Biometrics

8 Provision of biometric information with immigration applications

[See section 126(2), (4)(fa) and (9) of the Nationality, Immigration and Asylum Act 2002.]

9–13 * * * * *

14 Use and retention of biometric information

[See section 126(8A) of the Nationality, Immigration and Asylum Act 2002.]

PARTS 2–6

* * * * *

PART 7

FINAL PROVISIONS

72 * * * * *

73 Transitional and consequential provision

- (1) * * * * *
- (2) * * * * *
- (3) * * * * *
- (4) * * * * *
- (5) * * * * *
- (6) Schedule 9 (transitional and consequential provision) has effect.

74–77* * * * * *

SCHEDULES

SCHEDULE 1

* * * * *

SCHEDULE 2

MEANING OF BIOMETRIC INFORMATION

Immigration Act 1971 (c. 77)

* * * * *

Immigration and Asylum Act 1999 (c. 33)

* * * * *

Nationality, Immigration and Asylum Act 2002 (c. 41)

3

[See section 126(1), (4) and (9) of the Nationality, Immigration and Asylum Act 2002.]

4

[See section 127 of the Nationality, Immigration and Asylum Act 2002.]

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

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SCHEDULES 3–8

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SCHEDULE 9

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19

[See section 126 of the Nationality, Immigration and Asylum Act 2002.]

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- ¹ chapter 21.170
- ² L.23/2018
- ³ chapter 23.750
- ⁴ chapter 17.245
- ⁵ *Deletions and words in square brackets indicate adaptations and modifications made by The Immigration (Biometric Information) (Jersey) Order 2018*
- ⁶ chapter 23.750
- ⁷ *Deletions and words in square brackets indicate adaptations and modifications made by The Immigration (Biometric Information) (Jersey) Order 2018*
- ⁸ chapter 17.245
- ⁹ *Deletions and words in square brackets indicate adaptations and modifications made by The Immigration (Biometric Registration) (Jersey) Order 2018*