

Draft Identity Cards Bill

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Make provision for a national scheme of registration of individuals and for the issue of cards capable of being used for identifying registered individuals; and for connected purposes.

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 follows:—

Registration

1 The National Identity Register

- (1) It shall be the duty of the Secretary of State to establish and maintain a register of individuals (to be known as “the National Identity Register”).
- (2) The Register is to be established and maintained for the following purposes only (“the statutory purposes”)—
 - (a) providing a record of registrable facts about individuals in the United Kingdom;
 - (b) providing a record of registrable facts about other individuals (living and dead) who have been in the United Kingdom, or who have applied to be entered in the Register;
 - (c) facilitating the issue of cards containing information that may be used by an individual issued with one for establishing his identity, place of residence or residential status;
 - (d) facilitating the provision of a service by means of which registrable facts about a registered individual may, with his consent, be ascertained or verified by other persons; and
 - (e) enabling information recorded in the Register for any of the preceding purposes to be disclosed to persons in cases authorised by or under this Act.
- (3) The establishment and maintenance of the Register for those purposes does not authorise—

- (a) the use in or as regards Scotland of the Register or of a card issued in accordance with this Act, or
- (b) the disclosure in or as regards Scotland of information recorded in the Register,
- except in relation to a matter or for purposes outside the legislative competence of the Scottish Parliament or in accordance with an Act of that Parliament. 5
- (4) In this Act “registrable fact”, in relation to an individual, means—
- (a) his identity;
- (b) where he resides in the United Kingdom;
- (c) where he has previously resided in the United Kingdom; 10
- (d) the times at which he was resident at the different places in the United Kingdom where he has resided;
- (e) his current residential status;
- (f) residential statuses previously held by him;
- (g) information about numbers allocated to him for identification purposes and about the documents to which they relate; 15
- (h) information about occasions on which information recorded about him in the Register has been accessed or disclosed; and
- (i) information recorded in the Register at his request.
- (5) In this section references to an individual’s identity are references to— 20
- (a) his full name;
- (b) other names by which he is or has previously been known;
- (c) his date and place of birth and, if he has died, the date of his death; and
- (d) physical characteristics of his that are capable of being used for identifying him. 25
- (6) In this section “residential status”, in relation to an individual, means—
- (a) his nationality;
- (b) his entitlement to remain in the United Kingdom; and
- (c) the terms and conditions of that entitlement.
- 2 Individuals entered in Register 30**
- (1) An entry must be made in the Register for every individual who—
- (a) is entitled to be entered in it; and
- (b) applies to be entered in it.
- (2) The individuals entitled to be entered in the Register are—
- (a) every individual who has attained the age of 16 and, without being excluded under subsection (3) from an entitlement to be registered, is residing at a place in the United Kingdom; and 35
- (b) every individual of a prescribed description who has resided in the United Kingdom or who is proposing to enter the United Kingdom.
- (3) Regulations made by the Secretary of State may provide that an individual residing in the United Kingdom is excluded from an entitlement to be registered if he is— 40
- (a) residing in the United Kingdom in exercise of an entitlement to remain there that will end less than the prescribed period after it was acquired; or 45

- (b) an individual of a prescribed description who has not yet been resident in the United Kingdom for the prescribed period.
- (4) An entry for an individual may be made in the Register (whether or not he has applied to be, or is entitled to be, entered in it) if information capable of being recorded in an entry for him is otherwise available to be recorded. 5
- (5) The Secretary of State –
- (a) may at any time modify the Register for the purpose of correcting information entered in it that he is satisfied is inaccurate; but
- (b) is not, by virtue of any provision of this Act, to be under a duty to correct such information unless he is so satisfied. 10
- (6) An entry in the Register consisting of all the information recorded about an individual must be given a unique number, to be known as his National Identity Registration Number; and that number must comply with the prescribed requirements.
- (7) The Secretary of State may by order modify the age for the time being specified in subsection (2)(a). 15

3 Information recorded in Register

- (1) The only information that may be recorded in the Register is –
- (a) information the inclusion of which in an individual's entry is authorised by Schedule 1; 20
- (b) information of a technical nature for use in connection with the administration of the Register;
- (c) information of a technical nature for use in connection with the administration of arrangements made for purposes connected with the issue or cancellation of ID cards; and 25
- (d) information recorded in the Register in accordance with subsection (2).
- (2) Information about an individual must be recorded in his entry in the Register (whether or not it is authorised by Schedule 1) if –
- (a) he has made an application to the Secretary of State requesting the recording of the information as part of his entry; 30
- (b) regulations made by the Secretary of State do not exclude it from the information that may be the subject of such a request; and
- (c) the Secretary of State considers that it is both practicable and appropriate for it to be recorded in accordance with the applicant's request. 35
- (3) Information, once entered in the Register, may continue to be recorded in the Register for so long as it is consistent with the statutory purposes for it to be so recorded.
- (4) The Secretary of State may by order modify the information for the time being set out in Schedule 1. 40
- (5) The Secretary of State may make an order under this section adding information to the information that may be recorded in the Register only if he considers that it would be consistent with the statutory purposes for the additional information to be so recorded.

- (6) The Secretary of State must not make an order containing (with or without other provision) any provision for adding information to the information that may be recorded in the Register unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

4 Designation of documents for purposes of registration etc. 5

- (1) The Secretary of State may by order designate a description of documents for the purposes of this Act.
- (2) The only documents that may be the subject of an order designating a description of documents for the purposes of this Act are –
- (a) documents that a person has a power or duty to issue by virtue of provision made by or under an enactment; or 10
 - (b) documents which a Minister of the Crown is authorised or required to issue otherwise than by virtue of provision so made.

5 Applications relating to entries in Register

- (1) An application by an individual to be entered in the Register may be made either – 15
- (a) by being included in the prescribed manner in an application for a designated document; or
 - (b) by being submitted in the prescribed manner directly to the Secretary of State. 20
- (2) Where an application to be issued with a designated document is made by an individual, the application must do one of the following –
- (a) include an application by that individual to be entered in the Register;
 - (b) state that the individual is already entered in the Register and confirm the contents of his entry; 25
 - (c) state that the individual is entered in the Register and confirm the contents of his entry subject to the changes notified in the application.
- (3) Where an individual makes –
- (a) an application to be entered in the Register, or
 - (b) an application which for the purposes of this Act confirms (with or without changes) the contents of his entry in the Register, 30
- the application must be accompanied by the prescribed information.
- (4) Where an individual has made an application falling within subsection (3)(a) or (b), the Secretary of State may require him to do such one or more of the things specified in subsection (5) as the Secretary of State thinks fit for the purpose of – 35
- (a) verifying information that may be entered in the Register about that individual in consequence of that application; or
 - (b) otherwise ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register. 40
- (5) The things that an individual may be required to do under subsection (4) are –
- (a) to attend at a specified place and time;
 - (b) to allow his fingerprints, and other biometric information about himself, to be taken and recorded;
 - (c) to allow himself to be photographed; 45

- (d) otherwise to provide such information as may be required by the Secretary of State.
- (6) Regulations under this section must not require an individual to provide information to another person unless it is information required by the Secretary of State for the statutory purposes. 5
- (7) In this section “biometric information” and “fingerprint” have the same meanings as in paragraph 2 of Schedule 1; and the power to make consequential provision in connection with a modification of that Schedule by an order under section 3(4) includes power to make consequential modifications of subsection (5) of this section. 10
- 6 Power of Secretary of State to require registration**
- (1) The Secretary of State may by order impose an obligation on individuals of a description specified in the order to be entered in the Register.
- (2) An order under this section may impose an obligation on individuals required to be entered in the Register to apply in accordance with section 5 to be so entered. 15
- (3) An order which imposes an obligation to make such an application must set out—
- (a) the time when the requirement to make the application arises; and
 - (b) the period after that time within which the application must be made. 20
- (4) An individual who—
- (a) contravenes an obligation imposed on him by provision made under subsections (2) and (3), or
 - (b) contravenes a requirement imposed on him under section 5(4) in connection with an application made in pursuance of such an obligation, 25
- shall be liable to a civil penalty not exceeding £2,500.
- (5) An individual required to be entered in the Register by virtue of this section who contravenes a requirement imposed under section 5(4) otherwise than in connection with such an application shall be liable to a civil penalty not exceeding £1,000. 30
- (6) An individual who has contravened an obligation imposed on him by provision made under subsections (2) and (3) and on whom a penalty has been imposed under subsection (4) in respect of that contravention shall be liable to a further civil penalty not exceeding £2,500 in respect of each subsequent occasion on which— 35
- (a) a notice is given to him by the Secretary of State requiring him to make an application to be entered in the Register; and
 - (b) he fails to do so within the period specified in the notice.
- 7 Procedure for orders under s. 6** 40
- (1) The Secretary of State must not make an order containing (with or without other provision) any provision for compulsory registration unless—
- (a) a draft of the order has been laid before Parliament and approved by a resolution of each House; and

- (b) each of the resolutions for approving the draft was agreed more than 60 days after the day on which the draft was laid before the House in question.
- (2) No draft order containing provision for compulsory registration is to be laid before Parliament unless – 5
- (a) the Secretary of State has prepared and published a report containing a proposal for the making of such provision;
- (b) the report sets out the Secretary of State’s reasons for making the proposal;
- (c) the report has been laid before Parliament and each House has approved the proposal contained in the report, either with or without modifications; and 10
- (d) the draft order gives effect to the proposal so far as approved by both Houses.
- (3) An approval given in either House satisfies the requirements of subsection (2)(c) only if it was given in that House on the first occasion on which a motion for the approval of the proposal was made in that House by a Minister of the Crown after – 15
- (a) the laying of the report; or
- (b) if more than one report containing that proposal has been laid before that House, the laying of the one laid most recently. 20
- (4) The Secretary of State must not make an order which –
- (a) contains (with or without other provision) any provision that he is authorised to make by section 6, but
- (b) is not an order containing provision for compulsory registration, unless a draft of the order has been laid before Parliament and approved by a resolution of each House. 25
- (5) In reckoning a period of 60 days for the purposes of subsection (1), no account shall be taken of a day for which –
- (a) Parliament is dissolved or prorogued; or 30
- (b) the House in question is adjourned as part of an adjournment of more than four days.
- (6) References in this section to provision for compulsory registration are references to any provision that the Secretary of State is authorised to make by section 6 the effect of which is to impose an obligation on individuals to be entered in the Register from a time when they would not otherwise be subject to such an obligation. 35

ID cards

8 Issue etc. of ID cards

- (1) For the purposes of this Act an ID card is a card which is issued to an individual by the Secretary of State, or as part of or together with a designated document, and which does one or both of the following as respects that individual – 40
- (a) records registrable facts about him that are recorded as part of his entry in the Register;
- (b) contains data enabling it to be used for facilitating the making of applications for information recorded in a prescribed part of that 45

individual's entry in the Register, or for otherwise facilitating the disclosure of that information.

- (2) An ID card issued to an individual –
- (a) must record only the prescribed information;
 - (b) must record prescribed parts of it in an encrypted form; and 5
 - (c) is valid only for the prescribed period.
- (3) Except in prescribed cases, an ID card must be issued to an individual if he –
- (a) is entitled to be entered in the Register or, by virtue of section 6, is required to be so entered; and
 - (b) is an individual about whom the prescribed registrable facts have been entered in the Register. 10
- (4) In prescribed cases an ID card may be issued to an individual who –
- (a) is not required to be issued with one; but
 - (b) is an individual about whom the prescribed registrable facts have been entered in the Register. 15
- (5) An ID card relating to an individual is not to be issued except on an application made by him which either –
- (a) accompanies an application made by him to be entered in the Register; or
 - (b) in the prescribed manner confirms (with or without changes) the contents of an entry already made in the Register for that individual. 20
- (6) An application for the issue of an ID card to an individual must be included, in the prescribed manner –
- (a) in every application made by him to be issued with a designated document; and 25
 - (b) in every application made by him in accordance with provision made under section 6.
- (7) Other applications for the issue of an ID card –
- (a) may be made only in the prescribed manner;
 - (b) may be made to the Secretary of State or, in prescribed cases, to a designated documents authority; and 30
 - (c) must be accompanied by the prescribed information;
- and regulations for the purposes of paragraph (b) may authorise an application to be made to a designated documents authority irrespective of whether an application is made to that authority for the issue of a designated document. 35
- (8) The Secretary of State must not make regulations containing (with or without other provision) any provision for prescribing –
- (a) the information to be recorded in or on an ID card, or
 - (b) the form in which information is to be recorded in or on such a card, unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House. 40

9 Renewal of ID cards for those compulsorily registered

- (1) This section applies where an individual –
- (a) is required, by virtue of section 6, to be entered in the Register; and
 - (b) is so entered. 45

- (2) If the individual—
- (a) holds a valid ID card that is due to expire within the prescribed period, or
 - (b) does not hold a valid ID card,
- he must apply for one within the prescribed period. 5
- (3) Where an individual applies for an ID card in pursuance of this section, the Secretary of State may require him to do such one or more of the things specified in subsection (4) as the Secretary of State thinks fit for the purpose of—
- (a) verifying information provided for the purposes of the application; or 10
 - (b) otherwise ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register.
- (4) The things that an individual may be required to do under subsection (3) are—
- (a) to attend at a specified place and time;
 - (b) to allow his fingerprints, and other biometric information about himself, to be taken and recorded; 15
 - (c) to allow himself to be photographed;
 - (d) otherwise to provide such information as may be required by the Secretary of State.
- (5) An individual who contravenes— 20
- (a) a requirement imposed by subsection (2), or
 - (b) a requirement imposed under subsection (3),
- shall be liable to a civil penalty not exceeding £1,000.
- (6) In this section “biometric information” and “fingerprint” have the same meanings as in paragraph 2 of Schedule 1; and the power to make consequential provision in connection with a modification of that Schedule by an order under section 3(4) includes power to make consequential modifications of subsection (4) of this section. 25

10 Functions of persons issuing designated documents

- (1) A designated documents authority must not issue a designated document to an individual unless the authority is satisfied— 30
- (a) that the requirements imposed by or under this Act in relation to the application for the issue of that document to that individual have been complied with; and
 - (b) that the Secretary of State has considered and disposed of so much of that application as relates to the making or confirmation of an entry in the Register. 35
- (2) Where the designated documents authority then issues the designated document to that individual, it must ensure that the document contains, or is issued with, an ID card satisfying the prescribed requirements in relation to that individual. 40
- (3) Regulations made by the Secretary of State may impose requirements regulating how designated documents authorities handle—
- (a) applications to be entered in the Register that are made to them;
 - (b) applications to be issued with ID cards that are made to them (whether or not as part of an application for a designated document); and 45

- (c) applications made to them that confirm (with or without changes) an individual's entry in the Register.
- (4) Regulations made by the Secretary of State may also require designated documents authorities to notify the Secretary of State where a designated document that contains, or was issued with, an ID card—
 - (a) is modified, suspended or revoked; or
 - (b) is required to be surrendered.

Maintaining accuracy of Register etc.

11 Power to require information for validating Register

- (1) Where it appears to the Secretary of State that a person on whom a requirement may be imposed under this section has in his possession information about an individual that could be used for verifying—
 - (a) something recorded in that individual's entry in the Register,
 - (b) something provided to the Secretary of State or a designated documents authority for the purpose of being recorded in an entry about that individual in the Register, or
 - (c) something otherwise available to the Secretary of State for being so recorded,
 the Secretary of State may require that person to provide him with the information.
- (2) Where it appears to a designated documents authority—
 - (a) that a person on whom a requirement may be imposed under this section has in his possession information about an individual who has applied to the authority for the issue or modification of a designated document or of an ID card, and
 - (b) that the information could be used for verifying something that is recorded in that individual's entry in the Register or has been provided to that authority for the purpose of being recorded in an entry about that individual in the Register,
 the authority may require that person to provide it with the information.
- (3) It shall be the duty of a person who is required to provide information under this section to comply with the requirement.
- (4) A requirement may be imposed under this section on any person specified for the purposes of this section in an order made by the Secretary of State.
- (5) The power of the Secretary of State to make an order specifying a person as a person on whom a requirement may be imposed under this section includes power to provide that his duty to comply with a requirement so imposed is owed to the person imposing it and is enforceable by that person in civil proceedings—
 - (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988 (c. 36); or
 - (c) for any other appropriate remedy or relief.
- (6) The Secretary of State must not make an order containing (with or without other provision) any provision that he is authorised to make by this section

unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

12 Notification of changes affecting accuracy of Register

- (1) An individual to whom an ID card has been issued must notify the Secretary of State about— 5
 - (a) every prescribed change of circumstances affecting the information recorded about him in the Register; and
 - (b) every error in that information of which he is aware.
- (2) A notification for the purposes of this section must be given— 10
 - (a) in the prescribed manner; and
 - (b) within the prescribed period after the change of circumstances occurs or he becomes aware of the error.
- (3) Where an individual has given a notification for the purposes of this section, the Secretary of State may require him to do such one or more of the things falling within subsection (4) as the Secretary of State thinks fit for the purpose of— 15
 - (a) verifying the information that may be entered in the Register about that individual in consequence of the notified change or for the purpose of correcting the error; or
 - (b) otherwise ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register. 20
- (4) The things that an individual may be required to do under subsection (3) are— 25
 - (a) to attend at a specified place and time;
 - (b) to allow his fingerprints, and other biometric information about himself, to be taken and recorded;
 - (c) to allow himself to be photographed;
 - (d) otherwise to provide such information as may be required by the Secretary of State.
- (5) Regulations under this section must not require an individual to provide information to another person unless it is information required by the Secretary of State for the statutory purposes. 30
- (6) An individual who contravenes a requirement imposed on him by or under this section shall be liable to a civil penalty not exceeding £1,000.
- (7) In this section “biometric information” and “fingerprint” have the same meanings as in paragraph 2 of Schedule 1; and the power to make consequential provision in connection with a modification of that Schedule by an order under section 3(4) includes power to make consequential modifications of subsection (4) of this section. 35

13 Invalidity and surrender of ID cards

- (1) Regulations may require an individual to whom an ID card has been issued to notify the Secretary of State, and such other persons as may be prescribed, if— 40
 - (a) the card has been lost, stolen, damaged or destroyed; or
 - (b) there is reason to suspect that the card has been tampered with.
- (2) The Secretary of State may cancel an ID card if it appears to him—

- (a) that it was issued in reliance on inaccurate or incomplete information;
 - (b) that a change of circumstances requires a modification of the information recorded in or on it; or
 - (c) that it has been lost, stolen, damaged, destroyed or tampered with.
- (3) A person who is knowingly in possession of an ID card without either – 5
 - (a) the lawful authority of the individual to whom it was issued, or
 - (b) the permission of the Secretary of State,must surrender the card as soon as it is practicable to do so.
- (4) Where it appears to the Secretary of State that a person is in possession of – 10
 - (a) an ID card issued to another, or
 - (b) an ID card that has expired or been cancelled or is otherwise invalid,the Secretary of State may require that person to surrender the card within such period as he may specify.
- (5) Where an ID card has to be surrendered under subsection (3) or (4), it must be 15surrendered –
 - (a) to the Secretary of State; or
 - (b) in the case of a card issued by designated documents authority, either to the Secretary of State or to that authority.
- (6) A person who contravenes a requirement imposed by or under – 20
 - (a) any regulations under subsection (1), or
 - (b) subsection (3) or (4),is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) shall be liable – 25
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both;but, in relation to an offence committed before the commencement of section 30281(5) of the Criminal Justice Act 2003 (c. 44), the reference in paragraph (a) to 51 weeks is to be read as a reference to six months.
- (8) Where – 35
 - (a) a designated document has been issued with an ID card; and
 - (b) an obligation to surrender the designated document, or otherwise to deliver it, to any person is imposed on the person with possession of it,the obligation to surrender or otherwise to deliver the designated document includes an obligation to surrender or to deliver the ID card.
- (9) In this section – 40
 - (a) references to a card having been damaged include references to anything in or on it having become unreadable or otherwise unusable; and 45
 - (b) references to a card having been tampered with include references to information in or on it having been modified for an unlawful purpose, or copied or otherwise extracted for such a purpose.

*Disclosures from Register with consent***14 Disclosures with consent of registered individual**

- (1) The Secretary of State may make a disclosure of information recorded in an individual's entry in the Register if –
- (a) an application for the disclosure is made to him by a person who has the authority of that individual to make the application; or 5
 - (b) that individual otherwise consents to the making of the disclosure.
- (2) The Secretary of State may by regulations make provision as to –
- (a) how an authority for the purposes of subsection (1)(a) is to be given;
 - (b) the persons by whom, and the circumstances in which, an application for those purposes may be made; and 10
 - (c) how such an application is to be made.
- (3) Those regulations may make it a condition of making an application for the disclosure of information that the applicant has registered prescribed particulars about himself with the Secretary of State. 15
- (4) Nothing in this section, or in any other enactment, confers on any individual –
- (a) any right to the disclosure of information recorded in so much of his entry in the Register as falls within paragraph 9 of Schedule 1; or
 - (b) any other right in relation to that information;
- and the Secretary of State is not, in response to an application under this section, to make a disclosure of any information recorded in the Register unless he thinks fit. 20
- (5) The power to make consequential provision in connection with a modification of Schedule 1 by an order under section 3(4) includes power to make consequential modifications of any reference in subsection (4) of this section to paragraph 9 of that Schedule. 25

*Required identity checks***15 Power to make public services conditional on identity checks**

- (1) Regulations may make provision allowing or requiring a person who provides a public service to make it a condition of providing the service to an individual that the individual produces –
- (a) an ID card;
 - (b) other evidence of registrable facts about himself; or 30
 - (c) both.
- (2) Regulations under this section may not allow or require the imposition of a condition on –
- (a) the entitlement of an individual to receive a payment under or in accordance with any enactment, or
 - (b) the provision of any public service that has to be provided free of charge, 40
- except in cases where the individual is of a description of individuals who, by virtue of section 6, are required to be entered in the Register.

- (3) Nothing in this section authorises the making of regulations the effect of which would be to require an individual –
- (a) to carry an ID card with him at all times; or
 - (b) to produce such a card otherwise than for purposes connected with an application by him for the provision of a public service, or with the provision of a public service for which he has applied. 5
- (4) Regulations under this section may not allow or require the imposition of a condition in or as regards Scotland on the provision of a public service except where the provision of that service is outside the legislative competence of the Scottish Parliament. 10
- (5) References in this section and in sections 16 and 17 to the provision of a public service are references to –
- (a) the provision of any service to an individual by a public authority;
 - (b) the exercise or performance in relation to an individual of any power or duty of a Minister of the Crown, the Treasury or a Northern Ireland department; 15
 - (c) the doing by any other person of anything in relation to an individual which that person is authorised or required to do for purposes connected with the carrying out of any function conferred on him by or under an enactment; or 20
 - (d) treating an individual as having complied with a requirement imposed on him by or under any enactment.
- (6) References in this section and in section 16 to an application for the provision of a public service include references to any claim, request or requirement for the provision of the service. 25

16 Power to provide for checks on the Register

- (1) Regulations may make provision authorising the disclosure to a person who provides a public service in respect of which –
- (a) a condition is imposed under section 15, or
 - (b) a condition for the production of an ID card, or of evidence of registrable facts, or both, is imposed by or under any other enactment, 30
- of information recorded in the Register that he requires for the purpose of ascertaining or verifying registrable facts about an individual who has applied for the provision of the service.
- (2) Regulations under this section may not authorise a disclosure to be made otherwise than in accordance with regulations made by the Secretary of State under section 18. 35
- (3) Regulations under this section may not authorise the disclosure in or as regards Scotland of any information except in relation to a matter or for purposes outside the legislative competence of the Scottish Parliament. 40
- (4) References in this section to the provision of a public service and to applying for such a service are to be construed in accordance with section 15(5) and (6).

17 Procedure for regulations under ss. 15 and 16

- (1) The power to make regulations under section 15 or 16 shall be exercisable –

- (a) in relation to the provision of public services for which the National Assembly for Wales is responsible, by that Assembly;
- (b) in relation to the provision of public services in Northern Ireland so far as the provision of those services is a transferred matter (within the meaning of section 4(1) of the Northern Ireland Act 1998 (c. 47)), by the Office of the First Minister and the deputy First Minister; and 5
- (c) so far as not exercisable by any other person under paragraph (a) or (b), by the Secretary of State.
- (2) Regulations containing (with or without other provision) any provision the making of which is authorised by section 15 or 16 must not be made by the Secretary of State or the Office of the First Minister and deputy First Minister unless a draft of the regulations – 10
- (a) in the case of regulations made by the Secretary of State, has been laid before Parliament and approved by a resolution of each House; and
- (b) in the case of regulations made by the Office of the First Minister and deputy First Minister, has been laid before and approved by the Northern Ireland Assembly. 15
- (3) Before –
- (a) draft regulations under section 15 or 16 are laid before either House of Parliament or the Northern Ireland Assembly, or 20
- (b) regulations under that section are made by the National Assembly for Wales,
- the person proposing to make the regulations must take such steps as that person thinks fit for securing that members of the public likely to be affected by the regulations are informed about the matters mentioned in subsection (4), and for consulting them about it. 25
- (4) Those matters are –
- (a) the reasons for the making of the regulations; and
- (b) why reliance is not being placed on powers conferred otherwise than by this Act. 30
- (5) Where –
- (a) a power to impose the conditions for the provision of a public service is exercisable under any enactment not contained in this Act, and
- (b) that power is exercisable only after consultation with such persons as may be specified or described in that enactment, 35
- the power under section 15 or 16 to impose a condition for the provision of that service or to make provision in relation to such a condition is to be exercisable only after consultation with the persons so specified or described.
- (6) References in this section to the provision of a public service are to be construed in accordance with section 15(5). 40

18 Regulations about identity checks

- (1) The Secretary of State may by regulations make provision as to –
- (a) the manner in which applications for disclosures authorised under section 16 must be made; and
- (b) the information that may be disclosed in response to such an application and the manner in which it may be disclosed. 45

- (2) Those regulations may make it a condition of making an application for the disclosure of information, that the applicant has registered prescribed particulars about himself with the Secretary of State.
- (3) The Secretary of State must not make regulations containing (with or without other provision) any provision that he is authorised to make by this section unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House. 5
- (4) Before draft regulations under this section are laid before either House of Parliament, the Secretary of State must take such steps as he thinks fit for securing that— 10
- (a) members of the public in the United Kingdom are informed about the reasons for the proposal to make the regulations; and
 - (b) for consulting them about it.

19 Prohibition on requirements to produce identity cards

- (1) It shall be unlawful in cases not falling within subsection (2) for any person— 15
- (a) to make it a condition of doing anything in relation to an individual that the individual establishes his identity by the production of an ID card; or
 - (b) otherwise to impose a requirement on an individual to produce such a card. 20
- (2) Each of the following is a case in which such a condition or requirement may be imposed in relation to or on an individual—
- (a) where the condition or requirement is imposed in accordance with regulations under section 15, or in accordance with provision made by or under any other enactment; 25
 - (b) where provision is made allowing the individual to satisfy the condition or other requirement using reasonable alternative methods of establishing his identity;
 - (c) where the individual is of a description of persons who, by virtue of section 6, are required to be entered in the Register. 30
- (3) The obligation of a person by virtue of this section not to impose a condition or requirement in relation to or on an individual is a duty owed to that individual and is enforceable by him in civil proceedings—
- (a) for an injunction or interdict; or
 - (b) for any other appropriate remedy or relief. 35

Other disclosures from Register

20 Disclosures without consent of registered individual

- (1) The Secretary of State may, without the individual's consent, make a disclosure of information recorded in an individual's entry in the Register if— 40
- (a) the disclosure is authorised by this section; and
 - (b) any requirements imposed in relation to the disclosure by or under section 24 are complied with.
- (2) A disclosure of information is authorised by this section if it is—

- (a) a disclosure made to the Director-General of the Security Service for purposes connected with the carrying out of any of that Service's functions;
- (b) a disclosure made to the Chief of the Secret Intelligence Service for purposes connected with the carrying out of any of that Service's functions; 5
- (c) a disclosure made to the Director of the Government Communications Headquarters for purposes connected with the carrying out of any of the functions of GCHQ;
- (d) a disclosure made to the Director General of the National Criminal Intelligence Service for purposes connected with the carrying out of any of that Service's functions; or 10
- (e) a disclosure made to the Director General of the National Crime Squad for purposes connected with the carrying out of any of that Squad's functions. 15
- (3) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to a chief officer of police –
- (a) in the interests of national security;
- (b) for purposes connected with the prevention or detection of crime; or
- (c) for purposes specified by order made by the Secretary of State. 20
- (4) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to the Commissioners of Inland Revenue or the Commissioners of Customs and Excise –
- (a) in the interests of national security;
- (b) for purposes connected with the prevention or detection of crime; 25
- (c) for purposes connected with the prevention, detection or investigation of conduct in respect of which the Commissioners have power to impose penalties, or with the imposition of such penalties;
- (d) for the purpose of facilitating the checking of information provided to the Commissioners in connection with anything under their care and management, or with any other matter in relation to which the Commissioners have duties under any enactment; 30
- (e) for purposes connected with any of the functions of the Commissioners of Inland Revenue in relation to national insurance contributions or national insurance numbers; or 35
- (f) for other purposes specified by order made by the Secretary of State.
- (5) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to a prescribed officer of the Secretary of State's department for purposes connected with the carrying out of any prescribed functions of the Secretary of State. 40
- (6) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section if it is made to a prescribed officer of the Department for Social Development in Northern Ireland for purposes connected with any of the functions of that Department in relation to social security benefits in Northern Ireland, or in relation to national insurance numbers. 45
- (7) A disclosure of information not falling within paragraph 9 of Schedule 1 is authorised by this section (so far as it is not otherwise authorised by subsections (3) to (6)) if it is made –

- (a) for any of the purposes specified in section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (criminal proceedings and investigations); and
- (b) otherwise than in connection with crime in or as regards Scotland in relation to a matter within the legislative competence of the Scottish Parliament. 5
- (8) A disclosure of information falling within paragraph 9 of Schedule 1 is authorised by this section if –
- (a) it is made to a person to whom disclosures may be made by virtue of any of subsections (3) to (6) or is made as mentioned in subsection (7); and 10
- (b) it is made for purposes connected with the prevention or detection of serious crime.
- (9) A disclosure of information to a designated documents authority is authorised by this section if it is made for any purposes connected with the exercise or performance by the authority of – 15
- (a) any of its powers or duties by virtue of this Act; or
- (b) any of its other powers or duties in relation to the issue or modification of designated documents.
- (10) Nothing in this section is to be construed as restricting any power to disclose information that exists apart from this section. 20

21 Supplemental provisions for s. 20

- (1) In section 20 and this section –
- “chief officer of police” means – 25
- (a) the chief officer of police of a police force maintained for a police area in England and Wales;
- (b) the chief constable of a police force maintained under the Police (Scotland) Act 1967 (c. 77);
- (c) the Chief Constable of the Police Service of Northern Ireland;
- (d) the Chief Constable of the Ministry of Defence Police; 30
- (e) the Chief Constable of the Civil Nuclear Constabulary;
- (f) the Chief Constable of the British Transport Police;
- “crime” means any crime within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) of that Act) other than crime in or as regards Scotland in relation to a matter within the legislative competence of the Scottish Parliament; 35
- “detection”, in relation to crime or serious crime, is to be construed in accordance with subsection (2);
- “GCHQ” has the same meaning as in the Intelligence Services Act 1994 (c. 13); 40
- “serious crime” means crime that is serious crime within the meaning of the Regulation of Investigatory Powers Act 2000 (see section 81(2) and (3) of that Act);
- “social security benefits in Northern Ireland” means benefits payable under enactments relating to social security in Northern Ireland or under the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)). 45

- (2) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (c. 23) (which defines detection) applies for the purposes of section 20 as it applies for the purposes of the provisions of that Act that are not in Chapter 1 of Part 1 of that Act.
- (3) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (restriction on disclosure of information for overseas purposes) shall have effect in relation to a disclosure by virtue of section 20(7) as it applies in relation to a disclosure in exercise of a power to which section 17 of that Act applies. 5
- (4) The power to make consequential provision in connection with a modification of Schedule 1 by an order under section 3(4) includes power to make consequential modifications of any reference in section 20 to paragraph 9 of that Schedule. 10

22 Disclosures for the purpose of correcting false information

- (1) This section applies where –
- (a) information about an individual has been provided for verification purposes (whether under section 11 or otherwise) to the Secretary of State or to a designated documents authority; and 15
 - (b) it appears to the Secretary of State that the information was false in one or more particulars.
- (2) The Secretary of State may, without the individual's consent, disclose to the person who provided the false information – 20
- (a) the respects in which it is false; and
 - (b) what is in fact recorded in that individual's entry in respect of the matters to which the false information related.
- (3) A disclosure under this section is subject to compliance with any requirements imposed in relation to the disclosure by or under section 24. 25
- (4) The reference in this section to providing information about an individual for verification purposes is a reference to providing information about that individual that is required by the Secretary of State or a designated documents authority for verifying – 30
- (a) something recorded in that individual's entry in the Register,
 - (b) something provided to the Secretary of State or a designated documents authority for the purpose of being recorded in an entry about that individual in the Register, or
 - (c) something otherwise available to the Secretary of State for being so recorded. 35

23 Power to authorise other disclosures without consent

- (1) In a case where there is no authorisation under section 20 or 22 for the making of a disclosure, the Secretary of State may nevertheless, without the individual's consent, make a disclosure of information recorded in an individual's entry in the Register if – 40
- (a) the information is of a description specified or described in an order made by the Secretary of State;
 - (b) the disclosure is made to a person so specified or described;
 - (c) the disclosure is made for the purposes so specified or described; and 45

- (d) any requirements imposed in relation to the disclosure by or under section 24 are complied with.
- (2) The Secretary of State must not make an order containing (with or without other provision) any provision that he is authorised to make by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House. 5

24 Rules for making disclosures without consent

- (1) The Secretary of State may make a disclosure under sections 20 to 23 of information falling within paragraph 2 of Schedule 1 only if he is satisfied that it would not have been reasonably practicable for the person to whom the disclosure is made to have obtained the information by other means. 10
- (2) The Secretary of State may by regulations make provision –
- (a) imposing requirements that must be satisfied before a disclosure is made under any of sections 20 to 23; and
 - (b) restricting the persons who may be authorised to act on his behalf for or in connection with the making of such a disclosure. 15
- (3) Those regulations may include –
- (a) provision requiring a disclosure to be made to a person only where an application for it has been made by or on behalf of that person;
 - (b) provision specifying or describing the persons who may make applications on that person's behalf; and 20
 - (c) provision imposing other requirements as to the manner in which such applications must be made.
- (4) The Secretary of State may also, by regulations, provide that a disclosure that may be made to a person specified in or under any of sections 20 to 23 may be made instead to a person who – 25
- (a) is authorised by the specified person to be a recipient of such disclosures;
 - (b) holds such office, rank or position as may be specified in the regulations; and 30
 - (c) is under the direction or control of the specified person, or is otherwise answerable or subordinate to him, in respect of any of his duties as a person holding that office, rank or position.

National Identity Scheme Commissioner

25 Appointment of Commissioner 35

- (1) The Prime Minister must appoint a Commissioner to be known as the National Identity Scheme Commissioner.
- (2) It shall be the function of the Commissioner to keep under review the exercise by the Secretary of State of his powers under this Act to disclose information recorded in the Register without the consent of the individual to whom it relates. 40
- (3) It shall be the duty of every official of the Secretary of State's department to provide the Commissioner with all such information (including information

recorded in the Register) as he may require for the purpose of carrying out his function under this Act.

- (4) A person is not to be appointed as the Commissioner unless he holds or has held high judicial office (within the meaning of the Appellate Jurisdiction Act 1876 (c. 59)). 5
- (5) The Commissioner is to hold office in accordance with the terms of his appointment; and there shall be paid to him out of money provided by Parliament such allowances as the Treasury may determine.
- (6) The Secretary of State –
 - (a) after consultation with the Commissioner, and 10
 - (b) subject to the approval of the Treasury as to numbers,
 must provide the Commissioner with such staff as the Secretary of State considers necessary for the carrying out of the Commissioner's functions.

26 Reports by Commissioner

- (1) As soon as practicable after the end of each calendar year, the Commissioner must make a report to the Prime Minister about the carrying out of the Commissioner's functions. 15
- (2) The Commissioner may also, at any other time, make such report to the Prime Minister on any matter relating to the carrying out of those functions as the Commissioner thinks fit. 20
- (3) The Prime Minister must lay before Parliament a copy of every annual report made to him under subsection (1).
- (4) If it appears to the Prime Minister, after consultation with the Commissioner, that the publication of a particular matter contained in an annual report would be contrary to the public interest or prejudicial to – 25
 - (a) national security,
 - (b) the prevention or detection of crime,
 - (c) the economic well-being of the United Kingdom, or
 - (d) the continued discharge of the functions of any public authority,
 the Prime Minister may exclude that matter from the copy of the report that he lays before Parliament. 30
- (5) Where a matter is excluded under subsection (4) from a copy of an annual report laid before Parliament, the Prime Minister must, when he lays that copy of the annual report, also lay before Parliament a statement that a matter has been excluded from the report under that subsection. 35

Offences

27 Possession of false identity documents etc.

- (1) It is an offence for a person to have in his possession or under his control –
 - (a) an identity document that is false and that he knows or believes to be false, 40
 - (b) an identity document that was improperly obtained and that he knows or believes to have been improperly obtained, or
 - (c) an identity document that relates to someone else,

- with the intention of using it for establishing registrable facts about himself, or of allowing or inducing another to use it for establishing, ascertaining or verifying registrable facts about himself or about any other person (with the exception, in the case of a document within paragraph (c), of the individual to whom it relates). 5
- (2) It is an offence for a person to make, or to have in his possession or under his control—
- (a) any machine or other apparatus which, to his knowledge, is or has been specially designed or adapted for the making of false identity documents, or 10
- (b) any article or material which, to his knowledge, is or has been specially designed or adapted to be used in the making of false identity documents,
- with the intention that he or another will make a false identity document and that the document will be used by somebody for establishing, ascertaining or verifying registrable facts about a person. 15
- (3) It is an offence for a person to have in his possession or under his control, without reasonable excuse—
- (a) an identity document that is false;
- (b) an identity document that was improperly obtained; 20
- (c) an identity document that relates to someone else; or
- (d) any machine or other apparatus, article or material which, to his knowledge, is or has been specially designed or adapted for the making of false identity documents or to be used in the making of such documents. 25
- (4) A person guilty of an offence under subsection (1) or (2) shall be liable, on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or to both.
- (5) A person guilty of an offence under subsection (3) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both; 30
- (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum, or to both;
- (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; 35
- but, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in paragraph (b) to twelve months is to be read as a reference to six months. 40
- (6) For the purposes of this section—
- (a) an identity document is false only if it is false within the meaning of Part 1 of the Forgery and Counterfeiting Act 1981 (c. 45) (see section 9(1) of that Act); and
- (b) an identity document was improperly obtained if false information was provided, in or in connection with the application for its issue or an application for its modification, to the person who issued it or (as the case may be) to a person entitled to modify it; 45

and references to the making of a false identity document include references to the modification of an identity document so that it becomes false.

- (7) In this section “identity document” has the meaning given by section 28.

28 Identity documents for the purposes of s. 27

- (1) In section 27 “identity document” means any document that is, or purports to be— 5
- (a) an ID card;
 - (b) a designated document;
 - (c) an immigration document;
 - (d) a United Kingdom passport (within the meaning of the Immigration Act 1971 (c. 77)); 10
 - (e) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom or by or on behalf of an international organisation;
 - (f) a document that can be used (in some or all circumstances) instead of a passport; 15
 - (g) a UK driving licence; or
 - (h) a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom.
- (2) In subsection (1) “immigration document” means— 20
- (a) a document used for confirming the right of a person under the Community Treaties in respect of entry or residence in the United Kingdom;
 - (b) a document which is given in exercise of immigration functions and records information about leave granted to a person to enter or to remain in the United Kingdom; or 25
 - (c) a registration card (within the meaning of section 26A of the Immigration Act 1971);
- and in paragraph (b) “immigration functions” means functions under the Immigration Acts (within the meaning of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004). 30
- (3) In that subsection “UK driving licence” means—
- (a) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988 (c. 52);
 - (b) a licence to drive a motor vehicle granted under Part 2 of the Road Traffic Act (Northern Ireland) 1981 (S.I. 1981/154 (N.I. 1)); or 35
 - (c) a document issued as a counterpart with a licence falling within paragraph (a) or (b).
- (4) The Secretary of State may by order modify the list of documents in subsection (1). 40
- (5) The Secretary of State must not make an order containing (with or without other provision) any provision that he is authorised to make by subsection (4) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

29 Unauthorised disclosure of information

- (1) A person is guilty of an offence if, without lawful authority, he discloses information which is or has become available to him by reason of his holding an office or employment the duties of which relate, in whole or in part, to—
- (a) the establishment or maintenance of the Register; or 5
 - (b) the issue, modification, cancellation or surrender of ID cards.
- (2) For the purposes of this section a disclosure is made with lawful authority if, and only if—
- (a) it is authorised by or under this Act or any other enactment;
 - (b) it is made in pursuance of an order or direction of a court or of a tribunal established by or under any enactment; 10
 - (c) it is made in pursuance of a Community obligation; or
 - (d) it is made for the purpose of performing the duties of an office or employment of the sort mentioned in subsection (1).
- (3) It is a defence for a person charged with an offence under this section to show that, at the time of the alleged offence, he believed, on reasonable grounds, that he had lawful authority to make the disclosure in question. 15
- (4) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both. 20

30 Providing false information

- (1) A person is guilty of an offence if, in circumstances falling within subsection (2), he provides false information to any person—
- (a) for the purpose of securing the making or modification of an entry in the Register; 25
 - (b) in confirming an entry in the Register; or
 - (c) for the purpose of obtaining for himself or another the issue or modification of an ID card.
- (2) Those circumstances are that, at the time of the provision of the information he—
- (a) knows or believes the information to be false; or
 - (b) is reckless as to whether or not it is false. 30
- (3) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both; 35
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum, or to both;
 - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; 40

but, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in paragraph (b) to twelve months is to be read as a reference to six months.

31 Tampering with Register

- (1) In section 3 of the Computer Misuse Act 1990 (c. 18) (unauthorised modification of computer material) –
- (a) in paragraph (b) of subsection (7) (penalty for offence on conviction on indictment), at the beginning insert “subject to subsection (8)”; and 5
 - (b) after that subsection insert the subsection set out in subsection (2) of this section.
- (2) The inserted subsection is –
- “(8) Where an offence under this section is committed wholly or partly in relation to any contents of a computer that consist of the National Identity Register or any part of it, subsection (7)(b) above shall have effect as if for ‘five years’ there were substituted ‘ten years’.” 10

32 Consequential amendments relating to offences

- (1) In Schedule 1A to the Police and Criminal Evidence Act 1984 (c. 60) (arrestable offences), at the end insert – 15
- “Identity Cards Act 2004*
- 28 An offence under –
- (a) section 27(3) of the Identity Cards Act 2004 (possession of false document etc.);
 - (b) section 29 of that Act (disclosure of information on National Identity Register); or 20
 - (c) section 30 of that Act (providing false information).”
- (2) In section 1(2) of the Criminal Justice Act 1993 (c. 36) (Group A offences in respect of which jurisdiction is extended for some purposes in relation to conduct outside England and Wales), after paragraph (c) insert – 25
- “(ca) section 27 of the Identity Cards Act 2004;”.
- (3) At the end of Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (offences for which an arrest may be made without a warrant), insert – 30
- “(l) An offence under –
- (i) section 27(3) of the Identity Cards Act 2004 (possession of false document etc.);
 - (ii) section 29 of that Act (disclosure of information on National Identity Register); or
 - (iii) section 30 of that Act (providing false information).” 35
- (4) In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (which makes provision in relation to conduct outside Northern Ireland corresponding to that made by section 1(2) of the Criminal Justice Act 1993), after sub-paragraph (c) insert – 40
- “(ca) section 27 of the Identity Cards Act 2004;”.

*Civil penalties***33 Imposition of civil penalties**

- (1) This section applies where the Secretary of State is satisfied that a person (“the defaulter”) is a person who is liable under this Act to a civil penalty not exceeding a specified amount. 5
- (2) The Secretary of State may, by a notice given to the defaulter in the prescribed manner, impose on him a penalty of such amount, not exceeding the specified amount, as the Secretary of State thinks fit.
- (3) A notice imposing such a penalty must—
- (a) set out the Secretary of State’s reasons for deciding that the defaulter is liable to a penalty; 10
 - (b) state the amount of the penalty that is being imposed;
 - (c) specify a date before which the penalty must be paid to the Secretary of State;
 - (d) describe how payment may be made; 15
 - (e) explain the steps that the defaulter may take if he objects to the penalty; and
 - (f) set out and explain the powers of the Secretary of State to enforce the penalty.
- (4) The date for the payment of a penalty must be not less than 14 days after the giving of the notice imposing it. 20
- (5) A penalty imposed in accordance with this section—
- (a) must be paid to the Secretary of State in a manner described in the notice imposing it; and
 - (b) if not so paid by the specified date, is to be recoverable by him 25 accordingly.
- (6) In proceedings for recovery of a penalty so imposed no question may be raised as to—
- (a) whether the defaulter was liable to the penalty; or
 - (b) the amount of the penalty. 30
- (7) Sums received by the Secretary of State in respect of penalties imposed in accordance with this section must be paid into the Consolidated Fund.

34 Objection to penalty

- (1) A person to whom a notice under section 33 has been given may give notice to the Secretary of State that he objects to the penalty on one or both of the following grounds— 35
- (a) that he is not liable to it;
 - (b) that the amount of the penalty is too high.
- (2) The notice of objection—
- (a) must set out the grounds of the objection and the objector’s reasons for objecting on those grounds; and 40
 - (b) must be given to the Secretary of State in the prescribed manner and within the prescribed period after the giving of the notice imposing the penalty.

- (3) The Secretary of State must consider a notice of objection given in accordance with this section and may then –
- (a) cancel the penalty;
 - (b) reduce it;
 - (c) increase it; or
 - (d) confirm it.
- (4) The Secretary of State must not enforce a penalty in respect of which he has received a notice of objection before he has notified the objector of the outcome of his consideration of the objection.
- (5) That notification of the outcome of his consideration must be given, in the prescribed manner –
- (a) before the end of the prescribed period; or
 - (b) within such longer period as he may agree with the objector.
- (6) Where, on consideration of an objection, the Secretary of State increases the penalty, he must give the objector a new penalty notice under section 33; and, where he reduces it, he must notify the objector of the reduced amount.

35 Appeals against penalties

- (1) A person on whom a penalty has been imposed under section 33 may appeal to the court on one or both of the following grounds –
- (a) that he is not liable to it; or
 - (b) that the amount of the penalty is too high.
- (2) An appeal under this section must be brought within such period after the giving of the notice imposing the penalty to which it relates as may be specified by rules of court.
- (3) On an appeal under this section, the court may –
- (a) allow the appeal and cancel the penalty;
 - (b) allow the appeal and reduce the penalty; or
 - (c) dismiss the appeal.
- (4) An appeal under this section shall be by way of a rehearing of the Secretary of State's decision to impose the penalty.
- (5) The matters to which the court may have regard when determining an appeal under this section include all matters that the court considers relevant, including –
- (a) matters of which the Secretary of State was unaware when he made his decision; and
 - (b) matters which (apart from this subsection) the court would be prevented from having regard to by virtue of rules of court.
- (6) An appeal under this section may be brought in relation to a penalty irrespective of whether a notice of objection under section 34 has been given in respect of that penalty and of whether there has been an increase or reduction under that section.
- (7) In this section “the court” means –
- (a) in England and Wales or Northern Ireland, a county court; and
 - (b) in Scotland, the sheriff.

36 Code of practice on penalties

- (1) The Secretary of State must issue a code of practice setting out the matters that he will consider when determining the amount to be imposed in any case by way of a civil penalty under this Act.
- (2) The Secretary of State must have regard to the code when— 5
 (a) imposing a civil penalty under this Act; or
 (b) considering a notice of objection under section 34.
- (3) The court must have regard to the code when determining any appeal under section 35.
- (4) Before issuing the code, the Secretary of State must lay a draft of it before Parliament. 10
- (5) The code issued under this section does not come into force until the time specified by order made by the Secretary of State.
- (6) The Secretary of State may from time to time— 15
 (a) revise the whole or a part of the code; and
 (b) issue the revised code.
- (7) Subsections (4) and (5) apply to a revised code as they apply to the code first issued under this section.

*Supplemental***37 Fees etc.** 20

- (1) The Secretary of State may by regulations specify fees, of such amounts as he thinks fit, to be paid to him in respect of each of the following— 25
 (a) applications made to him for an entry to be made in the Register, for the modification of an entry or for the issue of an ID card;
 (b) the making or modification of entries in the Register;
 (c) the issue of ID cards;
 (d) applications for the disclosure to any person of the whole, or a part, of the information contained in any one or more entries in the Register;
 (e) the making of such a disclosure;
 (f) applications for the confirmation of any information by reference to information recorded in the Register; 30
 (g) the issue of such a confirmation.
- (2) The consent of the Treasury is required for the making of regulations under subsection (1).
- (3) Every power conferred by or under an enactment to fix or impose fees in respect of— 35
 (a) an application for a designated document, or
 (b) the issue of a designated document,
 includes power to fix or impose fees in respect of anything done by virtue of this Act in connection with such an application, or with the issue of such a document. 40

- (4) Fees received by the Secretary of State by virtue of this section must be paid into the Consolidated Fund.

38 Orders and regulations

- (1) Every power conferred by this Act on the Secretary of State or the National Assembly for Wales to make an order or regulations is a power exercisable by statutory instrument. 5
- (2) The power of the Office of the First Minister and deputy First Minister to make regulations under section 15 or 16 is a power exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)). 10
- (3) Subject to subsection (5), a statutory instrument containing an order or regulations made by the Secretary of State under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subject to subsection (5), every power conferred by this Act on a person to make an order or regulations includes power – 15
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as that person thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as that person thinks fit. 20
- (5) Subsection (3) does not apply to a statutory instrument which –
- (a) comprises an order under section 41 bringing a provision of this Act into force; or
 - (b) makes provision by reference to which a draft of the order or regulations contained in the instrument is required to have been laid before Parliament and approved by a resolution of each House; 25
- and subsection (4) does not apply to the power to make an order under section 41 bringing a provision of this Act into force.

39 Expenses of Secretary of State

- There shall be paid out of money provided by Parliament – 30
- (a) any sums authorised or required to be paid by the Secretary of State for or in connection with the carrying out of his functions under this Act; and
 - (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act. 35

40 General interpretation

- (1) In this Act –
- “card” includes a document or other article, or a combination of a document and an article, in or on which information is or may be recorded; 40
 - “the Commissioner” means the National Identity Scheme Commissioner appointed under section 25;
 - “contravention” includes a failure to comply, and cognate expressions are to be construed accordingly;

- “confirm”, in relation to an individual’s entry in the Register, is to be construed in accordance with subsection (3);
- “designated document” means a document of a description designated for the purposes of this Act by an order under section 4;
- “designated documents authority” means a person with the power or duty to issue a designated document; 5
- “document” includes a stamp or label;
- “enactment” includes –
- (a) a provision of Northern Ireland legislation; and
- (b) enactments passed or made after the passing of this Act; 10
- “false”, in relation to information, includes containing any inaccuracy or omission that results in a tendency to mislead;
- “ID card” is to be construed in accordance with section 8(1);
- “information” includes documents and records;
- “issue”, in relation to a document or card, and cognate expressions are to be construed in accordance with subsection (2); 15
- “modification” includes omission, addition or alteration, and cognate expressions are to be construed accordingly;
- “prescribed” means prescribed by regulations made by the Secretary of State; 20
- “place of residence” and “resides” are to be construed subject to any regulations under subsection (4);
- “public authority” has the same meaning as in section 6 of the Human Rights Act 1998 (c. 42);
- “the Register” means the National Identity Register established and maintained under section 1; 25
- “registrable fact” has the meaning given by section 1(4);
- “statutory purposes” means the purposes specified in section 1(2).
- (2) References in this Act to the issue of a document or card include references to its renewal, replacement or re-issue (with or without modifications). 30
- (3) References in this Act to an individual confirming the contents of his entry in the Register are references to his confirming that entry to the extent only that it consists of information falling within paragraphs 1 to 5 of Schedule 1 or section 3(2).
- (4) The Secretary of State may by regulations make provision for the purposes of this Act as to the circumstances in which a place is to be regarded, in relation to an individual – 35
- (a) as a place where he resides; or
- (b) as his principal place of residence in the United Kingdom.
- (5) The power to make consequential provision in connection with a modification of Schedule 1 by an order under section 3(4) includes power to make consequential modifications of any reference in subsection (3) of this section to paragraphs 1 to 5 of that Schedule. 40

41 Short title, repeals, commencement and extent

- (1) This Act may be cited as the Identity Cards Act 2004. 45

- (2) The enactments in Schedule 2 are repealed to the extent shown in the second column of that Schedule.
- (3) This Act (apart from this section) shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (4) This Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 3

INFORMATION THAT MAY BE RECORDED IN REGISTER

Personal information

- 1 The following may be recorded in an individual's entry in the Register – 5
- (a) his full name;
 - (b) other names by which he is or has been known;
 - (c) his date of birth;
 - (d) his place of birth;
 - (e) his gender; 10
 - (f) the address of his principal place of residence in the United Kingdom; and
 - (g) the address of every other place in the United Kingdom where he has a place of residence.

Identifying information 15

- 2 (1) The following may be recorded in an individual's entry in the Register –
- (a) a photograph of his head and shoulders;
 - (b) his fingerprints; and
 - (c) other biometric information about him.
- (2) In this paragraph – 20
- “biometric information”, in relation to an individual, means data about his external characteristics, including, in particular, the features of an iris or of any other part of the eye; and
- “fingerprint”, in relation to an individual, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of any of his fingers. 25

Residential status

- 3 The following may be recorded in an individual's entry in the Register –
- (a) his nationality;
 - (b) his entitlement to remain in the United Kingdom; and 30
 - (c) the terms and conditions of that entitlement.

Personal reference numbers etc.

- 4 (1) The following may be recorded in an individual's entry in the Register –
- (a) his National Identity Registration Number;

- (b) the number of any ID card issued to him;
 - (c) any national insurance number allocated to him;
 - (d) the number of any immigration document relating to him;
 - (e) the number of any United Kingdom passport (within the meaning of the Immigration Act 1971 (c. 77)) that has been issued to him; 5
 - (f) the number of any passport issued to him by or on behalf of the authorities of a country or territory outside the United Kingdom or by or on behalf of an international organisation;
 - (g) the number of any document that can be used by him (in some or all circumstances) instead of a passport; 10
 - (h) the number of any identity card issued to him by the authorities of a country or territory outside the United Kingdom;
 - (i) any reference number allocated to him by the Secretary of State in connection with an application made by him for permission to enter or to remain in the United Kingdom; 15
 - (j) the number of any work permit (within the meaning of the Immigration Act 1971) relating to him;
 - (k) the number of any designated document which is held by him and is a document the number of which does not fall within any of the preceding sub-paragraphs; and 20
 - (l) the date of expiry or period of validity of a document the number of which is recorded by virtue of this paragraph.
- (2) In this paragraph “immigration document” means –
- (a) a document used for confirming the right of a person under the Community Treaties in respect of entry or residence in the United Kingdom; 25
 - (b) a document which is given in exercise of immigration functions and records information about leave granted to a person to enter or to remain in the United Kingdom; or
 - (c) a registration card (within the meaning of section 26A of the Immigration Act 1971); 30
- and in paragraph (b) “immigration functions” means functions under the Immigration Acts (within the meaning of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004).

Record history 35

- 5 The following may be recorded in an individual’s entry in the Register –
- (a) information falling within the preceding paragraphs that has previously been recorded about him in the Register;
 - (b) particulars of changes affecting that information and of changes made to his entry in the Register; and 40
 - (c) his date of death.

Registration history

- 6 The following may be recorded in an individual’s entry in the Register –
- (a) the date of every application for registration made by him;
 - (b) the date of every application by him for a modification of the contents of his entry; 45

- (c) the date of every application by him confirming the contents of his entry (with or without changes);
- (d) particulars (in addition to its number) of every ID card issued to him;
- (e) whether each such card is in force and, if not, why not; and
- (f) particulars of any other individual who has countersigned an application by the individual in question for an ID card or a designated document, so far as those particulars were included on the application. 5

Validation information

- 7 The following may be recorded in the entry in the Register for an individual – 10
- (a) the information provided in connection with every application by him to be entered in the Register, for a modification of the contents of his entry or for the issue of an ID card;
 - (b) the information provided in connection with every application by him confirming his entry in the Register (with or without changes); 15
 - (c) particulars of the steps taken in connection with any application mentioned in paragraph (a) or (b) or otherwise for identifying the applicant or for verifying the information provided in connection with the application; 20
 - (d) particulars of any other steps taken or information obtained (otherwise than in connection with an application mentioned in paragraph (a) or (b)) for ensuring that there is a complete, up-to-date and accurate entry about that individual in the Register;
 - (e) particulars of every notification given by that individual for the purposes of section 12; 25
 - (f) particulars of every notification given by that individual for the purposes of regulations under section 13(1); and
 - (g) particulars of any requirement by the Secretary of State to a person to surrender an ID card issued to that individual. 30

Security information

- 8 The following may be recorded in the entry in the Register for an individual –
- (a) a personal identification number to be used for facilitating the making of applications for, and the disclosure of, information recorded in his entry; 35
 - (b) a password or other code to be used for that purpose; and
 - (c) questions and answers to be used for identifying a person seeking to make such an application or to apply for or to make a modification of that entry. 40

Access records

- 9 The following may be recorded in the entry in the Register for an individual –
- (a) particulars of every occasion on which a person has accessed the individual's entry and of the person who accessed it; 45

- (b) particulars of every occasion on which information contained in the individual's entry has been disclosed, of the disclosure and of the person to whom it was disclosed;
- (c) particulars of every step taken on such an occasion for modifying the individual's entry, for issuing or cancelling an ID card issued to him or for requiring the surrender of such a card; and 5
- (d) information for identifying the person who took any such steps on such an occasion.

SCHEDULE 2

Section 41

REPEALS

10

| <i>Short title and chapter</i> | <i>Extent of repeal</i> | |
|--|--|----|
| Forgery and Counterfeiting Act 1981 (c. 45) | In section 5— (a) subsection (5)(f) and (fa); and (b) subsections (9) to (11). | |
| Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 | Section 3. | 15 |