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STATUTORY INSTRUMENTS

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**2018 No. 1358**

**IMMIGRATION**

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

*Made - - - - 12th December 2018*

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

At the Court at Buckingham Palace, the 12th day of December 2018

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 170(7) of the Immigration and Asylum Act 1999<sup>(1)</sup>, section 163(4) of the Nationality, Immigration and Asylum Act 2002<sup>(2)</sup> and section 76(6) of the Immigration Act 2014<sup>(3)</sup>, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Immigration (Biometric 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.

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(1) 1999 c. 33.

(2) 2002 c. 41.

(3) 2014 c. 22.

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

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

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

3. 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.

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

4. 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 2003(4), 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 2018(5) in paragraph 3, in sub-paragraph (a)(ii) and sub-paragraph (b) for ““directions”” substitute ““Orders””.

*Richard Tilbrook*  
Clerk of the Privy Council

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(4) S.I. 2003/1252.  
(5) S.I. 2018/619

## 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 2003.”;
  - (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”.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### 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 2014.”.
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”.”. ”

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### EXPLANATORY NOTE

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

This Order extends to Jersey, with modifications, sections 126 to 128 of the Nationality, Immigration and Asylum Act 2002 (“the 2002 Act”) and amendments of those sections, and of section 144 of the Immigration and Asylum Act 1999 (“the 1999 Act”), made by the Immigration Act 2014. The Order also extends to Jersey section 145 of the 1999 Act.

The sections of the 2002 Act in their extended form make the following provisions—

Section 126 enables the States of Jersey to provide by Regulations that a person who makes an application for a visa or entry clearance, or for leave to enter or remain (including variation of such leave) will be required to provide biometric information specified in the Regulations when making such an application, or to provide on demand such information to an “authorised person”, who is enabled by the Regulations to collect such information (for example, an entry clearance officer or immigration officer).

Under section 127 the Jersey Minister for Home Affairs may operate a scheme that enables people voluntarily to provide information of the type covered by section 126 with a view to assisting and accelerating their entry into Jersey. Regulations made by the States of Jersey under this provision may

impose or permit imposition of a charge on participants and may provide for safeguards regarding the use and retention of data.

Section 128 substitutes section 144(1) of the 1999 Act (as it extends to Jersey) to provide that the Minister for Home Affairs may make Orders (rather than give directions) containing provisions equivalent to sections 141, 142 and 143 of that Act (which relate to fingerprinting) in relation to such other methods of collecting biometric information as may be prescribed.

Section 145 of the 1999 Act in its extended form requires immigration officers to have regard to specified provisions of a code of practice under the Police Procedures and Criminal Evidence (Jersey) Law 2003 when exercising certain powers of arrest and search etc.

The Order makes consequential amendments to the Immigration and Asylum Act 1999 (Jersey) Order 2003 and the Immigration (Biometric Registration) (Jersey) Order 2018.