Draft Regulations laid before Parliament under section 6(6)(e) of the UK Borders Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. ****

IMMIGRATION

The Immigration (Biometric Registration) (Amendment) Regulations 2012

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5, 6(6) and 7 of the UK Borders Act 2007(**1**).

In accordance with section 6(6)(e) of that Act, a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Immigration (Biometric Registration) (Amendment) Regulations 2012.

(2) These Regulations come into force on the day after the day on which they are made.

(3) In these Regulations, the "2008 Regulations" means the Immigration (Biometric Registration) Regulations 2008(**2**).

Amendments to the 2008 Regulations

2. The 2008 Regulations are amended as follows.

3. For regulation 2 substitute—

"**2.** In these Regulations—

"Certificate of Travel" means a travel document issued in the United Kingdom at the discretion of the Secretary of State to persons who have been formally and, in the view of the Secretary of State, unreasonably refused a passport by their own authorities and who have—

(**1**) 2007 c.30. Section 5(6) was amended by section 12 of, and paragraph 19 of the Schedule to, the Identity Documents Act 2010 (c.40).

(**2**) S.I. 2008/3048, as amended by S.I. 2009/819, S.I. 2009/3321 and S.I. 2010/2958.

(a) been refused recognition as a refugee or as a stateless person but have been granted discretionary leave to remain or humanitarian protection; or

(b) been granted indefinite leave to enter or remain;

"Convention travel document" means a travel document issued pursuant to Article 28 of the Geneva Convention;

"dependant" means a spouse, a civil partner, an unmarried or same sex partner, or a child;

"Geneva Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the New York Protocol of 31st January 1967;

"humanitarian protection" means protection granted in accordance with paragraph 339C of the immigration rules;

"immigration rules" means the rules for the time being laid down as mentioned in section 3(2) of the Immigration Act 1971(**3**);

"leave to remain" means limited or indefinite leave to remain in the United Kingdom given in accordance with the provisions of the Immigration Act 1971 or the immigration rules;

"refugee" means a person who falls within Article 1(A) of the Geneva Convention and to whom regulation 7 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 does not apply(**4**);

"Stateless Convention" means the Convention relating to the Status of Stateless Persons done at New York on 28th September 1954; and

"Stateless Person's Travel Document" means a travel document issued pursuant to Article 28 of the Stateless Convention.".

4. For regulation 3 (requirement to apply for a biometric immigration document) substitute—

"**Requirement to apply for a biometric immigration document**

3.—(1) Subject to paragraph (6), a person subject to immigration control must apply for the issue of a biometric immigration document where he—

(a) satisfies the condition in paragraph (2); or

(b) is a person falling within paragraph (3).

(2) The condition is that whilst in the United Kingdom the person makes an application—

(a) for limited leave to remain for a period which, together with any preceding period of leave to enter or remain, exceeds a cumulative total of 6 months leave in the United Kingdom;

(b) for indefinite leave to remain;

(c) to replace a stamp, sticker or other attachment in a passport or other document which indicated that he had been granted limited or indefinite leave to enter or remain in the United Kingdom;

(d) to replace a letter which indicated that he had been granted limited or indefinite leave to enter or remain in the United Kingdom;

(e) to be recognised as a refugee or a person in need of humanitarian protection;

(**3**) 1971 c.77.
(**4**) S.I. 2006/2525.

(f) to be recognised as a stateless person in accordance with Article 1 of the Stateless Convention;

(g) for a Convention Travel Document, Stateless Person's Travel Document or a Certificate of Travel and does not already hold a valid biometric immigration document; or

(h) as the dependant of a person who is making an application in accordance with sub-paragraph (a), (b), (e) or (f).

(3) Subject to paragraph (4), a person falls within this paragraph if he has been notified on or after 1st December 2012 that the Secretary of State has decided to grant him—

(a) limited leave to remain for a period which, together with any preceding period of leave to enter or remain, exceeds a cumulative total of 6 months leave in the United Kingdom; or

(b) indefinite leave to remain.

(4) A person does not fall within paragraph (3) if—

(a) he was required to apply for a biometric immigration document in respect of his application for that leave; or

(b) he was required to apply for a biometric immigration document in respect of any application mentioned in paragraph (2).

(5) Where a person is required to apply for a biometric immigration document, that application must be made on the form or in the manner specified for that purpose (if one is specified) in the immigration rules.

(6) These Regulations do not apply to a person who applies for or is granted leave to remain in accordance with paragraphs 56R and 56U of the immigration rules (Olympic or Paralympic Games Family Member Visitor or an Olympic or Paralympic Games Family Member Child Visitor)(**5**).".

5. Omit regulation 4 (specified categories under the immigration rules).

6.—(1) Regulation 8 (process by which a person's fingerprints and photograph may be obtained and recorded) is amended as follows.

(2) At the end of paragraph (2)(c) omit "and".

(3) For regulation 8(2)(d) substitute—

"(d) require a person to attend premises before a specified date where a record of his fingerprints or a photograph of his face is taken by a person on behalf of an authorised person; and

(e) specify any documents which the person must bring to the premises, or action which the person must take to confirm his identity.".

7. In regulation 13(1) (issue of a biometric immigration document) for "grant limited leave to remain to the person" substitute—

"(a) grant limited leave to remain to the person for a period which, together with any preceding period of leave to enter or remain, exceeds a cumulative total of 6 months leave in the United Kingdom; or

(b) grant indefinite leave to remain to the person; or

(**5**) Paragraphs 56R to 56W were inserted by the statement of changes in immigration rules presented to Parliament on 10th October 2011 (HC 1511).