Draft Regulations laid before Parliament under section 126(8)(b) of the Nationality, Immigration and Asylum Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2003 No.

IMMIGRATION

The Immigration (Provision of Physical Data) Regulations 2003

Made - - - -	*2003*
Coming into force - -	*2003*

Whereas a draft of these Regulations has been laid before and approved by resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred upon him by section 126(1) of the Nationality, Immigration and Asylum Act 2002(**1**), the Secretary of State hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Immigration (Provision of Physical Data) Regulations 2003 and shall come into force on the day after they are made.

2. In these Regulations:

"application" means an application for entry clearance made at a British Diplomatic mission or a British Consular post in a country listed in the Schedule to this Order; and

"applicant" means a person who makes an application and is aged five or over at the date of making that application.

Requirement for an application to be accompanied by a record of fingerprints

3. An application shall, subject to regulation 4, be accompanied by a record of the fingerprints of the applicant.

Provision in relation to applicants under the age of sixteen

4.—(1) An applicant under the age of sixteen shall not be required to provide a record of their fingerprints except in the presence of a person aged 18 or over who is—

(a) the child's parent or guardian; or

(**1**) 2002 c. 41.

(b) a person who for the time being takes responsibility for the child.

(2) The person mentioned in sub-paragraph (1)(b) may not be—

(a) an officer of the Secretary of State who is not an authorised person; or

(b) an authorised person.

(3) An applicant under the age of sixteen shall not be required to provide a record of their fingerprints unless it has been confirmed by an authorised person that the applicant's decision to provide it will comply with regulations 4(1) and (2) and that confirmation has been ratified by a person designated for the purpose by the Secretary of State.

(4) This regulation shall not apply if the authorised person reasonably believes that the applicant is aged sixteen or over.

Consequences of failure to comply with these Regulations

5. Where an application is not accompanied by a record of the applicant's fingerprints it may be treated as invalid.

Use of fingerprints

6. The Secretary of State may, in particular, supply information, including copies of fingerprints provided pursuant to these Regulations to any of the persons to whom, and for any of the purposes for which, he may supply information under section 21 of the Immigration and Asylum Act 1999(**2**).

Destruction of information

7. Subject to regulation 8, any record of fingerprints and copies of fingerprints provided by an applicant pursuant to these Regulations must be destroyed by the Secretary of State at the end of ten years from the date on which they were provided.

8. If an applicant proves that he is—

(a) a British citizen; or

(b) a Commonwealth citizen who has right of abode in the United Kingdom as a result of section 2(1)(b) of the Immigration Act 1971(**3**),

any record of fingerprints provided pursuant to these Regulations and any copies of fingerprints must be destroyed as soon as reasonably practicable.

9. The Secretary of State must take all reasonably practicable steps to secure:

(a) that data held in electronic form which relate to any record of fingerprints which are to be destroyed in accordance with regulation 7 are destroyed or erased; or

(b) that access to such data is blocked.

10. The applicant to whom the data relates is entitled, on written request, to a certificate issued by the Secretary of State to the effect that he has taken the steps required by regulation 9.

11. A certificate issued under regulation 10 must be issued within three months of the date on which the request was received by the Secretary of State.

(**2**) 1999 c. 33.
(**3**) 1971 c. 77.