

*These notes relate to the Lords Amendments to the UK Borders Bill, as brought from the House of Lords on 23rd October 2007 [Bill 168]*

## **UK BORDERS BILL**

---

### **EXPLANATORY NOTES ON LORDS AMENDMENTS**

#### **INTRODUCTION**

1. These explanatory notes relate to the Lords Amendments to the UK Borders Bill, as brought from the House of Lords on 23rd October 2007. They have been prepared by the Home Office in order to assist the reader of the Bill and the Lords Amendments and to help inform debate on the Lords Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These notes, like the Lords Amendments themselves, refer to HL Bill 68, the Bill as first printed for the Lords.
3. These notes need to be read in conjunction with the Lords Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords Amendments.
4. All the Lords Amendments were in the name of the Minister.

## **COMMENTARY ON LORDS AMENDMENTS**

### ***Lords Amendments 1 and 3***

5. Lords Amendment 1 removes the provision that enables the Secretary of State to set out in regulations when she can suspend or cancel a biometric immigration document and require the holder of a document to notify her. Lords Amendment 3 inserts a new subsection which sets out in detail when a biometric immigration document may be cancelled in accordance with regulations. This includes if the Secretary of State thinks the information provided in connection with the application for the document was or has become false, misleading or incomplete, the document has been lost, stolen, altered or damaged or destroyed, an attempt has been made to copy the document, the person has failed to surrender the document when required, the document should be re-issued, the holder is to be given leave to enter or remain in the UK, their leave is to be varied, cancelled, invalidated or to lapse, the holder has died, the holder has been removed from the UK, or has left the UK provided they do not retain their leave. The Secretary of State will also be able to specify through regulations other circumstances when the biometric immigration document should be cancelled.

6. Lords Amendment 3 also inserts a new subsection which sets out the circumstances when a holder of a biometric immigration document may be required to notify the Secretary of State. These include: when the holder knows or suspects that the document has been lost, stolen, damaged or altered, where they know or suspect the information provided in respect of the document has changed, or that due to a change in circumstances they would no longer qualify for the leave which was previously granted to them. The Secretary of State will also be able to specify through regulations other circumstances when a holder of a biometric immigration document should be required to notify her.

### ***Lords Amendment 2***

7. The amendment narrows the scope of the Secretary of State's power to make regulations enabling her to require the surrender of documents. The Secretary of State will now only be able to require the surrender of documents connected with immigration or nationality. The purpose of the provisions as amended is to enable old evidence of immigration status to be surrendered when the biometric immigration document is issued as the document which gives a person leave to enter or remain in the UK.

*These notes relate to the Lords Amendments to the UK Borders Bill, as brought from the House of Lords on 23rd October 2007 [Bill 168]*

***Lords Amendments 4 , 5 and 6***

8. Lords Amendment 4 removes references to a Code of Practice which may be specified in regulations. The purpose of Lords Amendment 5 is to delete references to provisions removed by Lords Amendment 4.

9. Lords Amendment 6 is a technical amendment to reflect the fact that a reference to section 3 of the Immigration Act 1971 is now introduced earlier in clause 5 (by Lords Amendment 4).

***Lords Amendment 7***

10. This amendment enables the Secretary of State to designate an adult as the person responsible for ensuring a child complies with a requirement of the regulations.

11. The effect of the child's failure to comply is that the Secretary of State may issue the designated adult with a civil penalty notice. The designated adult will have the same rights to object to the notice and/or appeal the notice just as if he was subject to the civil penalty in his own right.

***Lords Amendments 8 and 14***

12. Lords Amendment 8 specifies some of the purposes for which biometric information collected under regulations made under clause 5 will be 'used'. The amendment also preserves the Secretary of State's ability to specify further 'uses' for biometric information should they be identified in future. Lords Amendment 14 amends clause 8 to prevent repetition in the clause, which would otherwise arise as a result of the earlier amendment.

***Lords Amendments 9, 10, 11, 12, 13, and 15***

13. The purpose and effect of these amendments is to make clear that clause 8 only applies to biometric information and, where the clause relates to destruction of biometric information, that provision applies only to biometric information held by the Secretary of State.

***Lords Amendment 16***

14. This amendment makes the first laying of the draft Code of Practice for the civil penalty regime subject to the affirmative procedure in Parliament.

***Lords Amendments 17 and 18***

15. These amendments were brought forward to address a recommendation by the Lords Delegated Powers and Regulatory Reform Committee. The power to specify at what point during the application process after which evidence is excluded has been transferred from the immigration rules to the Asylum and Immigration Tribunal Procedure Rules.

*These notes relate to the Lords Amendments to the UK Borders Bill, as brought from the House of Lords on 23rd October 2007 [Bill 168]*

***Lords Amendment 19***

16. This clause requires the Secretary of State to issue a code of practice to ensure that in exercising its functions in the United Kingdom the Border and Immigration Agency takes appropriate steps to ensure that while children are in the United Kingdom they are safe from harm. Subsection (2) requires the Border and Immigration Agency to have regard to the code in the exercise of its functions and to take appropriate steps to ensure that any contractors with whom it makes arrangements have regard to the code.

17. Subsection (3) provides that the code will come into force through an order made by the Secretary of State by statutory instrument subject to the negative resolution procedure. Subsection (4) enables the Secretary of State to revise the code subject to the same procedure.

# UK BORDERS BILL

## EXPLANATORY NOTES ON LORDS AMENDMENTS

*These notes refer to the Lords Amendments to the UK Borders Bill as  
brought from the House of Lords  
on 23rd October 2007 [Bill 168]*

---

*Ordered, by The House of Commons, to be  
Printed, 23rd October 2007.*

---

© Parliamentary copyright House of Commons 2007  
*Applications for reproduction should be made in writing to the Copyright Unit,  
Her Majesty's Stationery Office, St. Clements House, 2–16 Colegate, Norwich, NR3 1BQ  
Fax 01603 723000*

LONDON: THE STATIONERY OFFICE

Printed in the United Kingdom by  
The Stationery Office Limited

£x.00