

Identity Documents Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as Bill 19 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Baroness Neville-Jones has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Identity Documents Bill are compatible with the Convention rights.

Identity Documents Bill

CONTENTS

Repeal of Identity Cards Act 2006

- 1 Repeal of Identity Cards Act 2006
- 2 Cancellation of ID cards etc
- 3 Destruction of information recorded in National Identity Register

False identity documents etc

- 4 Possession of false identity documents etc with improper intention
- 5 Apparatus designed or adapted for the making of false identity documents etc
- 6 Possession of false identity documents etc without reasonable excuse
- 7 Meaning of “identity document”
- 8 Meaning of “personal information”
- 9 Other definitions

Verification of information

- 10 Verifying information provided with passport applications etc

General

- 11 Orders
- 12 Consequential amendments
- 13 Transitional provision
- 14 Commencement, extent and short title

Schedule – Consequential amendments

A
B I L L

TO

Make provision for and in connection with the repeal of the Identity Cards Act 2006.

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:—

Repeal of Identity Cards Act 2006

1 Repeal of Identity Cards Act 2006

- (1) The Identity Cards Act 2006 is repealed.
- (2) But—
 - (a) sections 25 and 26 of that Act (possession of false identity documents etc), and 5
 - (b) section 38 of that Act (verifying information provided with passport applications etc),are re-enacted by this Act (with consequential amendments and, in the case of section 38, also with minor amendments). 10
- (3) In addition, the amendment of section 1 of the Consular Fees Act 1980 made by section 36 of the Identity Cards Act 2006 continues to have effect subject to a consequential amendment (see paragraph 2 of the Schedule to this Act).

2 Cancellation of ID cards etc

- (1) No ID cards are to be issued by the Secretary of State at any time on or after the day on which this Act is passed. 15
- (2) All ID cards that are valid immediately before that day are to be treated as cancelled by the Secretary of State at the end of the period of one month beginning with that day.
- (3) As soon as reasonably practicable after that day, the Secretary of State must send a letter to every cardholder — 20

- (a) informing the cardholder that the cardholder’s ID card is to be treated as cancelled as mentioned in subsection (2), and
 - (b) providing the cardholder with such information about the consequences of its cancellation as the Secretary of State considers appropriate. 5
- (4) A letter under subsection (3) must be sent to the address recorded (at the time it is sent) in the National Identity Register as the address of the cardholder’s principal place of residence in the United Kingdom.
- (5) For the purposes of this section a person is a “cardholder” if—
- (a) an ID card has been issued to the person, and 10
 - (b) the ID card is valid immediately before the day on which this Act is passed.
- (6) In this section “ID card” has the same meaning as in the Identity Cards Act 2006.

3 Destruction of information recorded in National Identity Register 15

The Secretary of State must ensure that all the information recorded in the National Identity Register is destroyed before the end of the period of two months beginning with the day on which this Act is passed.

False identity documents etc

4 Possession of false identity documents etc with improper intention 20

- (1) It is an offence for a person (“P”) with an improper intention to have in P’s possession or under P’s control—
- (a) an identity document that is false and that P knows or believes to be false,
 - (b) an identity document that was improperly obtained and that P knows or believes to have been improperly obtained, or 25
 - (c) an identity document that relates to someone else.
- (2) Each of the following is an improper intention—
- (a) the intention of using the document for establishing personal information about P; 30
 - (b) the intention of allowing or inducing another to use it for establishing, ascertaining or verifying personal information about P or anyone else.
- (3) In subsection (2)(b) the reference to P or anyone else does not include, in the case of a document within subsection (1)(c), the individual to whom it relates.
- (4) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both). 35

5 Apparatus designed or adapted for the making of false identity documents etc

- (1) It is an offence for a person (“P”) with the prohibited intention to make or to have in P’s possession or under P’s control— 40
- (a) any apparatus which, to P’s knowledge, is or has been specially designed or adapted for the making of false identity documents, or

- (b) any article or material which, to P’s knowledge, is or has been specially designed or adapted to be used in the making of such documents.
- (2) The prohibited intention is the intention—
- (a) that P or another will make a false identity document, and
 - (b) that the document will be used by somebody for establishing, ascertaining or verifying personal information about a person. 5
- (3) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).
- 6 Possession of false identity documents etc without reasonable excuse 10**
- (1) It is an offence for a person (“P”), without reasonable excuse, to have in P’s possession or under P’s control—
- (a) an identity document that is false,
 - (b) an identity document that was improperly obtained,
 - (c) an identity document that relates to someone else, 15
 - (d) any apparatus which, to P’s knowledge, is or has been specially designed or adapted for the making of false identity documents, or
 - (e) any article or material which, to P’s knowledge, is or has been specially designed or adapted to be used in the making of such documents.
- (2) A person guilty of an offence under this section is liable— 20
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), or
 - (b) on summary conviction, to imprisonment for a term not exceeding the maximum period or a fine not exceeding the statutory maximum (or both). 25
- (3) In subsection (2)(b) “the maximum period” means—
- (a) in England and Wales or Scotland, 12 months, and
 - (b) in Northern Ireland, 6 months.
- (4) In subsection (3)(a) the reference to 12 months in England and Wales is to be read, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, as a reference to 6 months. 30
- 7 Meaning of “identity document”**
- (1) For the purposes of sections 4 to 6 “identity document” means any document that is or purports to be—
- (a) an immigration document, 35
 - (b) a United Kingdom passport (within the meaning of the Immigration Act 1971),
 - (c) 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, 40
 - (d) a document that can be used (in some or all circumstances) instead of a passport,
 - (e) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic 1988 or under Part 2 of the Road Traffic (Northern Ireland) Order 1981, or 45

- (f) a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom.
- (2) In subsection (1)(a) “immigration document” means –
- (a) a document used for confirming the right of a person under the EU Treaties in respect of entry or residence in the United Kingdom, 5
 - (b) a document that 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). 10
- (3) In subsection (2)(b) “immigration functions” means functions under the Immigration Acts (within the meaning of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004).
- (4) References in subsection (1) to the issue of a document include its renewal, replacement or re-issue (with or without modifications). 15
- (5) In this section “document” includes a stamp or label.
- (6) The Secretary of State may by order amend the definition of “identity document”.

8 Meaning of “personal information”

- (1) For the purposes of sections 4 and 5 “personal information”, in relation to an individual (“A”), means – 20
- (a) A’s full name,
 - (b) other names by which A is or has previously been known,
 - (c) A’s gender,
 - (d) A’s date and place of birth, 25
 - (e) external characteristics of A that are capable of being used for identifying A,
 - (f) the address of A’s principal place of residence in the United Kingdom,
 - (g) the address of every other place in the United Kingdom or elsewhere where A has a place of residence, 30
 - (h) where in the United Kingdom and elsewhere A has previously been resident,
 - (i) the times at which A was resident at different places in the United Kingdom or elsewhere,
 - (j) A’s current residential status, 35
 - (k) residential statuses previously held by A, and
 - (l) information about numbers allocated to A for identification purposes and about the documents (including stamps or labels) to which they relate.
- (2) In subsection (1) “residential status” means – 40
- (a) A’s nationality,
 - (b) A’s entitlement to remain in the United Kingdom, and
 - (c) if that entitlement derives from a grant of leave to enter or remain in the United Kingdom, the terms and conditions of that leave.

9 Other definitions

- (1) “Apparatus” includes any equipment, machinery or device and any wire or cable, together with any software used with it.
- (2) In relation to England and Wales and Northern Ireland, an identity document is “false” only if it is false within the meaning of Part 1 of the Forgery and Counterfeiting Act 1981 (see section 9(1)). 5
- (3) An identity document was “improperly obtained” if—
- (a) false information was provided in, or in connection with, the application for its issue to the person who issued it, or
 - (b) false information was provided in, or in connection with, an application for its modification to a person entitled to modify it. 10
- (4) In subsection (3)—
- (a) “false” information includes information containing any inaccuracy or omission that results in a tendency to mislead,
 - (b) “information” includes documents (including stamps and labels) and records, and 15
 - (c) the “issue” of a document includes its renewal, replacement or re-issue (with or without modifications).
- (5) References to the making of a false identity document include the modification of an identity document so that it becomes false. 20
- (6) This section applies for the purposes of sections 4 to 6.

*Verification of information***10 Verifying information provided with passport applications etc**

- (1) This section applies where it appears to the Secretary of State that a person within subsection (3) may have information that could be used— 25
- (a) for verifying information provided to the Secretary of State for the purposes of, or in connection with, an application for the issue of a passport, or
 - (b) for determining whether to withdraw an individual’s passport.
- (2) For the purpose of making the verification or determination mentioned in subsection (1)(a) or (b), the Secretary of State may require the person within subsection (3) to provide the Secretary of State with the information by a date specified in the requirement. 30
- (3) The persons referred to in subsection (1) are— 35
- (a) a Minister of the Crown,
 - (b) a government department,
 - (c) a Northern Ireland department,
 - (d) the Welsh Ministers,
 - (e) the Registrar General for England and Wales,
 - (f) the Registrar General of Births, Deaths and Marriages for Scotland, 40
 - (g) the Registrar General of Births and Deaths in Northern Ireland,
 - (h) a qualifying credit reference agency, and

- (i) any other person specified for the purposes of this section by an order made by the Secretary of State.
- (4) A credit reference agency is “qualifying” if, at the time a requirement is imposed, the agency is acting for the purposes of a contract for the provision to the Secretary of State of information that could be used as mentioned in subsection (1)(a) or (b). 5
- (5) A requirement imposed under this section on a qualifying credit reference agency is enforceable in civil proceedings for –
- (a) an injunction,
 - (b) in Scotland, specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or 10
 - (c) any other appropriate remedy or relief.
- (6) The persons who may be specified under subsection (3)(i) include any person who carries out a function that –
- (a) is conferred by or under an enactment (whenever passed or made), and 15
 - (b) falls to be carried out on behalf of the Crown.
- (7) An order under subsection (3)(i) may provide that where a requirement is imposed under this section on the person specified in the order, the duty to comply with the requirement is enforceable as mentioned in subsection (5).
- (8) In a case within subsection (1)(a) where a passport is issued, information provided in accordance with this section must be destroyed no later than 28 days after the passport is issued. 20
- (9) In a case within subsection (1)(b) where a passport is not withdrawn, information provided in accordance with this section must be destroyed no later than 28 days after the determination is made not to withdraw the passport. 25
- (10) Subsections (8) and (9) do not apply in a case where it appears to the Secretary of State to be desirable to retain the information for the purpose of –
- (a) preventing or detecting crime, or
 - (b) apprehending or prosecuting offenders. 30
- (11) The Secretary of State may make payments to a person providing information in accordance with this section in respect of the provision of the information.
- (12) In this section –
- (a) “information” includes documents (including stamps and labels) and records, and 35
 - (b) the “issue” of a document includes its renewal, replacement or re-issue (with or without modifications).

General

11 Orders

- (1) This section applies to an order under section 7(6) or 10(3)(i). 40
- (2) An order is to be made by statutory instrument.

- (3) An order may be made only if a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) An order may contain incidental, supplemental, consequential or transitional provision. 5

12 Consequential amendments

The Schedule contains consequential amendments.

13 Transitional provision

- (1) The repeal and re-enactment of provisions by this Act does not affect the continuity of the law. 10
- (2) Any subordinate legislation or other thing which—
 - (a) has been made or done under or for the purposes of a provision repealed and re-enacted by this Act, and
 - (b) is in force or effective immediately before commencement,has effect after commencement as if made or done under or for the purposes of the corresponding provision of this Act. 15
- (3) Any reference (express or implied) in any enactment, instrument or document to a provision of this Act is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding provision repealed by this Act had effect, a reference to that corresponding provision. 20
This subsection applies only so far as the context permits.
- (4) Any reference (express or implied) in any enactment, instrument or document to a provision repealed and re-enacted by this Act is to be read, in relation to times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, as a reference or (as the context may require) as including a reference to that corresponding provision. 25
This subsection applies only so far as the context permits.
- (5) Any reference to a provision repealed and re-enacted by this Act which is contained in a document made, served or issued after commencement is to be read, except so far as a contrary intention appears, as a reference or (as the context may require) as including a reference to the corresponding provision of this Act. 30
- (6) In this section “commencement” means the commencement of this section.
- (7) This section has effect instead of section 17(2) of the Interpretation Act 1978 (but is without prejudice to section 16 and the other provisions of that Act). 35

14 Commencement, extent and short title

- (1) Sections 2 and 3 and this section come into force on the day on which this Act is passed.
- (2) The other provisions of this Act come into force at the end of the period of one month beginning with that day. 40
- (3) Any amendment, repeal or revocation made by this Act has the same extent as the enactment to which it relates.

- (4) Subject to that, this Act extends to England and Wales, Scotland and Northern Ireland.
- (5) This Act may be cited as the Identity Documents Act 2010.

SCHEDULE

Section 12

CONSEQUENTIAL AMENDMENTS

Immigration Act 1971

- 1 In section 3(9) of the Immigration Act 1971 (proof of right of abode)–
- (a) at the end of paragraph (b), insert “or”, and
 - (b) omit paragraphs (c) and (d).
- 5

Consular Fees Act 1980

- 2 Section 1 of the Consular Fees Act 1980 continues to have effect with the following subsections that were originally inserted by section 36 of the Identity Cards Act 2006, but, in consequence of the repeal of that Act by section 1 of this Act, with the omission of the original subsection (4A)(c)–
- 10
- “(4A) In prescribing a fee under subsection (1) for the doing of a particular thing, Her Majesty in Council may take into account–
- (a) the expenses that will be or have been incurred in doing that thing, both in the circumstances in relation to which the fee is prescribed and in other circumstances;
 - (b) the expenses that will be or have been incurred in doing such other things in the exercise of functions mentioned in that subsection as She thinks fit; and
 - (c) such differences between different persons in relation to whom things may be or have been done as She thinks fit.
- 15
- 20
- (4B) The power of Her Majesty in Council under subsection (1) to prescribe fees and the power of the Secretary of State under subsection (3) to make regulations each includes power–
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the person exercising the power thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as that person thinks fit.
- 25
- (4C) References in this section to expenses that will be incurred for any purpose include references to expenses that Her Majesty in Council considers are likely to be incurred for that purpose over such period as She thinks appropriate, including expenses that will only be incurred after the commencement of a particular enactment.”
- 30

Football Spectators Act 1989

- 3 The Football Spectators Act 1989 is amended as follows.
- 4 In sections 14E, 19, 21B and 21C (enforcement of banning orders etc), for “travel authorisation”, in each place, substitute “passport”.
- 35

- 5 In section 22A(1) (interpretation), omit the definition of “travel authorisation”.

Police and Criminal Evidence (Northern Ireland) Order 1989

- 6 In Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (offences for which an arrest may be made without a warrant), for paragraph (q) substitute – 5
- “(q) an offence under section 6 of the Identity Documents Act 2010 (possession of false identity documents etc without reasonable excuse).”

Child Support Act 1991 10

- 7 (1) Section 39B of the Child Support Act 1991 (disqualification for holding or obtaining driving licence or travel authorisation) is amended as follows.
- (2) In subsection (3)(b) and (c), for “a travel authorisation” substitute “a United Kingdom passport”.
- (3) In subsection (8) – 15
- (a) after the definition of “relevant document” insert –
- ““United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33(1)).”, and
- (b) omit the definition of “travel authorisation”.
- (4) In the heading, for “**travel authorisation**” substitute “**United Kingdom passport**”. 20

Criminal Justice Act 1993

- 8 In section 1(2) of the Criminal Justice Act 1993 (Group A offences in respect of which jurisdiction is extended for some purposes in relation to conduct outside England and Wales), for paragraph (ca) substitute – 25
- “(ca) an offence under any of sections 4 to 6 of the Identity Documents Act 2010;”.

Criminal Justice (Northern Ireland) Order 1996

- 9 In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (which makes provision in relation to conduct outside Northern Ireland corresponding to that made by section 1(2) of the Criminal Justice Act 1993), for paragraph (ca) substitute – 30
- “(ca) an offence under any of sections 4 to 6 of the Identity Documents Act 2010;”.

Immigration and Asylum Act 1999 35

- 10 (1) Section 31 of the Immigration and Asylum Act 1999 (defences based on Article 31(1) of the Refugee Convention) is amended as follows.
- (2) In subsection (3), for paragraph (aa) substitute –
- “(aa) section 4 or 6 of the Identity Documents Act 2010;”.

- (3) In subsection (4), for paragraph (ba) substitute—
“(ba) under section 4 or 6 of the Identity Documents Act 2010.”

Freedom of Information Act 2000

- 11 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities for the purposes of that Act), omit the entry relating to the National Identity Scheme Commissioner. 5

Regulation of Investigatory Powers Act 2000

- 12 The Regulation of Investigatory Powers Act 2000 is amended as follows.
- 13 In section 59 (functions of Intelligence Services Commissioner), omit subsection (2A). 10
- 14 (1) Section 65 (complaints in relation to which Tribunal has jurisdiction) is amended as follows.
- (2) In subsection (2)(b), omit “or (4A)”.
- (3) In subsection (3) —
- (a) at the end of paragraph (c), insert “or”, and 15
- (b) omit paragraphs (ca) and (cb) (together with the “or” at the end of paragraph (cb)).
- (4) Omit subsection (4A).

Criminal Justice and Police Act 2001

- 15 The Criminal Justice and Police Act 2001 is amended as follows. 20
- 16 (1) Section 33 (power to make travel restriction orders) is amended as follows.
- (2) In subsection (4) —
- (a) for “UK travel authorisation” substitute “UK passport”, and
- (b) for “any travel authorisation” substitute “any passport”.
- (3) In subsection (5), for “travel authorisation”, in each place, substitute “passport”. 25
- (4) For subsection (8) substitute —
- “(8) In this section “UK passport” means a United Kingdom passport within the meaning of the Immigration Act 1971 (see section 33(1)).”
- 17 In sections 35 and 36 (further provision in relation to travel restriction orders), for “travel authorisation”, in each place, substitute “passport”. 30

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

- 18 In section 14(2) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (powers of arrest for immigration officers), for paragraph (q) substitute — 35
- “(q) an offence under any of sections 4 to 6 of the Identity Documents Act 2010.”

UK Borders Act 2007

- 19 In section 5(6) of the UK Borders Act 2007 (registration regulations), omit the words from “; and section 16 of the Identity Cards Act 2006” to the end.

Policing and Crime Act 2009

- 20 In section 101(3) (prohibition on importation or exportation of false identity documents etc), in the definition of “document”, for “which is a card within the meaning of the Identity Cards Act 2006 (c. 15),” substitute “in or on which information is or may be recorded,”. 5

Welfare Reform Act 2009

- 21 (1) Section 53 of the Welfare Reform Act 2009 (report on operation of travel authorisation amendments) is amended as follows. 10
- (2) In subsections (1), (2) and (7), for “a travel authorisation” substitute “a United Kingdom passport”.
- (3) In subsections (4), (6) and (7), for “the travel authorisation amendments” substitute “the passport amendments”. 15
- (4) In subsection (13) –
- (a) after the definition of “the 1991 Act” insert –
- ““the passport amendments” means the amendments of the 1991 Act made by section 51 and Schedule 5 so far as relating to the disqualification of any person for holding or obtaining a United Kingdom passport; 20
- “United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33(1)).”, and
- (b) omit the definitions of “travel authorisation” and “the travel authorisation amendments”. 25
- (5) In the heading, for “**travel authorisation**” substitute “**passport**”.

Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009

- 22 The Identity Cards Act 2006 (Information and Code of Practice on Penalties) Order 2009 is revoked.

Identity Documents Bill

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B I L L

To make provision for and in connection with the repeal of the Identity Cards Act 2006.

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