

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS and POLICY & RESOURCES COMMITTEE

**BREXIT AND BIOMETRIC DATA: EXTENDING RELEVANT PROVISIONS OF UK
IMMIGRATION ACTS**

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Brexit and Biometric Data: Extending Relevant Provisions of UK Immigration Acts', dated 16th November, 2020, they are of the opinion:-

1. to agree that an Order in Council be made to extend to the Bailiwick, with such modifications as appear to Her Majesty in Council to be appropriate following consultation with the Committee *for* Home Affairs, the following provisions of the following Acts of Parliament –
 - (a) sections 144, 144A, 145 and 146 of the Immigration and Asylum Act 1999,
 - (b) sections 126, 127 and 164 of the Nationality, Immigration and Asylum Act 2002,
 - (c) sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 61 of the UK Borders Act 2007,
 - (d) sections 9, 12, 13 and 77 of, and Schedule 2 to, the Immigration Act 2014,
 - (e) sections 1, 2, 4, 5, 7 and 10 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, and
 - (f) such related provisions as it may be necessary or expedient to extend in order to give effect to the above provisions, and
2. to signify their agreement to the substance of the proposed Order in Council (a copy of the latest draft of which is attached as an Appendix to the Policy Letter) for the purposes of Article 72A of the Reform (Guernsey) Law, 1948 as amended.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS and POLICY & RESOURCES COMMITTEE

**BREXIT AND BIOMETRIC DATA: EXTENDING RELEVANT PROVISIONS OF UK
IMMIGRATION ACTS**

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port
Guernsey

16th November, 2020

Dear Sir

1 *Executive Summary*

- 1.1 The Committee *for* Home Affairs recommends that various provisions of immigration-related Acts ("Immigration Acts") in the UK are extended to the Bailiwick.
- 1.2 Following the UK Government's decision to leave the European Union, the UK Government has enacted the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (which received Royal Assent on the 11th November, 2020) ("the 2020 Act") which contains provisions ending the free movement of EEA nationals, protecting the status of Irish citizens and providing for consequential, transitional and savings provisions to be made. The 2020 Act would repeal provisions in the Immigration Act 1988 and amend the Immigration Act 1971 ("the 1971 Act"), and would be brought into force by regulations made by the Secretary of State.
- 1.3 As the Bailiwick is part of the Common Travel Area with the United Kingdom, the Isle of Man, the Bailiwick of Jersey and the Republic of Ireland, the Committee *for* Home Affairs recommends that relevant provisions of the 2020 Act are extended to the Bailiwick in order that they may have similar effect in the Bailiwick.
- 1.4 The Committee *for* Home Affairs recommends that sections 1, 2, 4, 5, 7 and 10 of the 2020 Act should be extended in a modified form that would –
 - (a) repeal provisions relating to free movement of EEA citizens and their

- (b) protect the status of Irish citizens in Bailiwick immigration law once their EU free movement rights are ended in the United Kingdom, and
 - (c) empower the Committee *for* Home Affairs to make regulations to make provisions and amend legislation in consequence of, or in connection with, the ending of free movement.
- 1.5 In addition, it is recommended that certain other provisions of Immigration Acts should be extended to the Bailiwick (and where necessary modification of provisions currently extended should be made) to give the Committee *for* Home Affairs the power to make regulations to require and authorise the collection and processing of biometric information for immigration and nationality purposes where this may be necessary to protect the integrity and security of the Common Travel Area. The intention is to align the powers of the Committee *for* Home Affairs with the powers of the Secretary of State to make regulations for these purposes in the United Kingdom, subject to suitable adaptations for the Bailiwick.
- 1.6 Provisions of the following Acts should be extended to enable and facilitate the collection and processing of biometric information –
 - (a) the Immigration and Asylum Act 1999, as amended ("the 1999 Act"),
 - (b) the Nationality, Immigration and Asylum Act 2002, as amended ("the 2002 Act"),
 - (c) the UK Borders Act 2007, as amended ("the 2007 Act"), and
 - (d) the Immigration Act 2014, as amended ("the 2014 Act").
- 1.7 These provisions in modified form would empower the Committee *for* Home Affairs to make regulations to –
 - (a) require or permit biometric information to be collected or provided,
 - (b) require and provide for biometric immigration documents to be issued and used for immigration and nationality purposes in connection with specified immigration procedures in specified circumstances,
 - (c) implement a regime of biometric registration for immigration and nationality purposes, and
 - (d) provide safeguards in relation to the collection, use and retention of biometric data, and the exercise of coercive powers by immigration officers.
- 1.8 This Policy Letter is brought to the States jointly by both Committees because they each have relevant mandates and responsibilities. The mandate of the Committee *for* Home Affairs includes responsibilities to advise the States and develop and implement policies on matters including crime prevention, the immigration regime and data protection; that Committee is proposing the extension of the relevant Immigration Acts. The Policy & Resources Committee's mandate includes exercising powers and performing duties conferred on by extant legislation, in this case those in Article 72A of the Reform (Guernsey) Law,

1948 as amended (“the Reform (Guernsey) Law”) (as in Section 8 below); that Committee is referring the matter to the States to fulfil its duties in Article 72A of the Reform (Guernsey) Law.

2 Background

- 2.1 Section 7 of the Immigration Act 1988 as currently extended to the Bailiwick provides that persons entitled to enter or remain in the UK by virtue of an enforceable Community right or provisions made under section 2(2) of the European Communities Act 1972 do not require leave to enter or remain in the Bailiwick. The Immigration (European Economic Area) Regulations 2016 made under that provision of the European Communities Act 1972 currently set out the circumstances in which EEA citizens and their family members can enter or remain in the UK. To align the Bailiwick with the UK's position on free movement after the Brexit implementation period, section 7 of the Immigration Act 1988 will need to be repealed by extending to the Bailiwick section 1 of the 2020 Act. Furthermore, the Committee *for* Home Affairs will need to have powers to make regulations to enact consequential, transitional and savings provisions as a result of the end of free movement, in the same way that the Secretary of State would be authorised to make such provisions under the 2020 Act.
- 2.2 To align the Bailiwick with the UK's position on immigration privileges to be given to Irish citizens after the Brexit implementation period, the 1971 Act will need to be amended. A new section will need to be inserted in the 1971 Act to give Irish citizens the privilege of entering and remaining in the Bailiwick without requiring leave to enter or remain, except in special circumstances such as where the Irish citizen has been excluded by directions given by the Lieutenant Governor because their exclusion is conducive to the public good.
- 2.3 With regard to the extension of provisions relating to biometric information, there are limited powers in the Bailiwick under provisions currently extended to require persons to provide biometric information in connection with immigration applications: fingerprints may be taken by authorised officers, and only in certain limited circumstances (for example where a person arriving in the Bailiwick fails to produce a valid passport or other document establishing identity and nationality or citizenship, or in the case of someone given only temporary admission pending removal from the Bailiwick, or someone who has claimed asylum). In addition, photographs (which may, in certain circumstances be biometric information) may be required and collected for nationality and passport applications (processed on behalf of the UK Secretary of State).
- 2.4 The Committee *for* Home Affairs considers that it is necessary to extend to the Bailiwick provisions enabling the collection and registration of biometric information more widely, in order for the Committee *for* Home Affairs to implement an appropriate and proportionate system of biometric registration to

ensure the security and integrity of the immigration and nationality system in the Bailiwick. Biometric information is information about a person's external physical characteristics (including in particular fingerprints and features of the iris). For the purposes of the provisions to be extended to the Bailiwick, biometric information would also include any other information about a person's physical characteristics prescribed by regulations made by the Committee *for* Home Affairs.

- 2.5 The extension of the provisions recommended by this Policy Letter would not itself impose any requirement to furnish biometric information, but would merely allow the Committee *for* Home Affairs to make regulations for this purpose. The Committee *for* Home Affairs would consult with the Data Protection Authority before making these regulations.
- 2.6 Updating the Bailiwick's immigration legislation is part of a continual process of ensuring that provisions that apply in Guernsey (and the rest of the Bailiwick) are broadly consistent with provisions applying in the UK and other parts of the Common Travel Area. This is essential to ensure that the Bailiwick continues to remain in the Common Travel Area.
- 2.7 The provisions that the Committee *for* Home Affairs recommends should be extended with modifications to the Bailiwick are summarised in Sections 3 to 6 below.

3 Powers enabling regulations to be made to require immigration applications to include biometric information

- 3.1 Sections 141 to 144 of the 1999 Act (as currently extended to the Bailiwick) govern the taking of fingerprints and other biometric information. These sections are limited in their scope to certain categories of persons mentioned in section 141, e.g. someone who has failed to produce a valid passport, someone given only temporary admission pending removal from the Bailiwick, or someone who has claimed asylum.
- 3.2. The Committee *for* Home Affairs recommends the extension of provisions of the 1999, 2002 and 2007 Acts that would allow regulations to be made by the Committee *for* Home Affairs to establish a regime for the mandatory provision, collection and registration of biometric information for a wide range of immigration and nationality purposes, and the issue of biometric immigration documents for these purposes. This would place the Bailiwick on equal footing to the UK.
- 3.3 The extension of sections 126 and 127 of the 2002 Act, together with the re-extension of section 144 and extension of section 144A of the 1999 Act, would empower the Committee *for* Home Affairs to make regulations –

- (a) requiring any immigration application, i.e. any application for –
 - (i) entry clearance,
 - (ii) leave to enter or remain in the Bailiwick, or
 - (iii) variation of leave to enter or remain in the Bailiwick,
 to be accompanied by specified biometric information,
 - (b) enabling biometric information to be taken and collected,
 - (c) requiring persons to attend in order to provide biometric information, and
 - (d) regulating the collection, taking and destruction of biometric information (including fingerprints).
- Guernsey and (if appropriate) UK immigration officers could be empowered to collect biometric information for the purposes of immigration or nationality.

3.4 Any regulations made by the Committee *for* Home Affairs should be laid before a meeting of the States as soon as possible. The States would have the power to annul these regulations, in which case they would cease to have effect but without prejudice to anything done under them or to the making of new regulations.

3.5 The extension of section 146 of the 1999 Act would authorise officers to use reasonable force, if necessary, in the exercise of any powers given to them under provisions of Immigration Acts extended to the Bailiwick, including powers to take fingerprints and powers to collect or take biometric information given under regulations made under section 144 of the 1999 Act.

3.6 The extension of sections 5 and 6 of the 2007 Act would empower the Committee *for* Home Affairs to make regulations requiring a person subject to immigration control to apply for the issue of a document recording information about the person's external physical characteristics. These regulations could include various other related provisions.

3.7 The extension of section 7 of the 2007 Act would set out the effect of non-compliance with regulations made under section 5 of the 2007 Act, and provide for regulations to require an immigration application submitted without the requisite biometric immigration document to be refused or disregarded.

3.8 The extension of sections 9 to 14 of the 2007 Act would authorise civil penalties to be imposed in the event of failure to comply with regulations requiring a person subject to immigration control to apply for a biometric immigration document.

4 Application of codes of practice to exercise of powers by immigration officers

4.1 When the 1999 Act was extended to the Bailiwick by the Immigration (Guernsey)

Order, 2003, the Bailiwick had neither the equivalent of the Police and Criminal Evidence Act 1984 ("PACE") nor codes made under PACE. As a result, section 145 of the 1999 Act was never extended to the Bailiwick.

- 4.2 However, the States have since enacted the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 ("PPACE") and a number of codes of practice have been made under that Law. It is proposed that section 145 of the 1999 Act be extended to the Bailiwick to require officers to have regard to provisions of any code specified in a direction given by the Committee *for* Home Affairs.
- 4.3 Officers would be obliged to have regard to provisions of PPACE codes (or UK equivalent PACE codes) when exercising any specified power to –
- (a) arrest, question, search or take fingerprints from a person,
 - (b) enter and search premises, or
 - (c) seize property found on persons or premises.

5 Further safeguards in relation to biometric information

- 5.1 The Committee *for* Home Affairs recommends the extension of various safeguards in the 2007 Act in relation to the collection and processing of biometric information.
- 5.2 The extension of section 8 of the 2007 Act would require the Committee *for* Home Affairs to make regulations to provide for the use and retention of the biometric information. That provision also sets out the uses for which biometric information may be retained and provides for regulations to be made to specify further permissible uses of that information. Regulations made by the Committee *for* Home Affairs would be required to provide for the destruction of that biometric information and copies of it.
- 5.3 The extension of section 13 of the 2014 Act would amend Schedule 2 to the Immigration Act 1971 to introduce special safeguards where an officer wishes to require a child under 16 years of age to provide biometric information: the confirmation by a senior officer and provision of that information in the presence of the parent, guardian or person responsible for the child is required.

6 Other provisions concerning use of biometric immigration documents for immigration and nationality

- 6.1 The extension of sections 9, 12(4) and 13 of the 2014 Act would make minor and consequential amendments to provisions in Schedule 2 to the 1971 Act, in order to align those provisions with the biometric information and registration provisions extended to the Bailiwick.

7 Order in Council

- 7.1 Extension of the provisions of the Immigration Acts is recommended to be carried out by Order in Council in keeping with current and long-standing practice: since at least 1993, all primary immigration-related legislation having effect in the Bailiwick have been provisions of UK Acts of Parliament extended to the Bailiwick (with appropriate modifications) by way of an Order in Council.
- 7.2 An Order in Council has been drafted and is currently being reviewed by the Ministry of Justice of the UK with a view to being submitted to the Privy Council at its first available sitting. The Appendix to this Policy Letter sets out the latest draft, for the information of the States only (this draft is, of course, subject to any necessary modifications).

8 Article 72A of the Reform (Guernsey) Law, 1948

- 8.1 Article 72A(1) and (2) of the Reform (Guernsey) Law, 1948 provides:

"Duty to refer certain matters to the States of Deliberation.

72A. (1) Where it is proposed that -

- (a) a provision of a draft Act of the Parliament of the United Kingdom should apply directly to Guernsey, or
 - (b) an Order in Council should be made -
 - (i) extending to Guernsey a provision of an Act of the Parliament of the United Kingdom,
 - (ii) extending to Guernsey a Measure, pursuant to the Channel Islands (Church Legislation) Measures 1931 and 1957, or
 - (iii) that is otherwise expressed to have effect in, or to be applicable to or otherwise binding upon, Guernsey,
- the Policy and Resources Committee shall, unless that Committee considers it unnecessary, submit the proposal to the States of Deliberation, in order that the States may signify their views on it.

(2) Where, upon transmission of -

- (a) an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a), or
 - (b) an Order in Council described in paragraph (1)(b),
- to the Royal Court for registration, it appears to the Royal Court that the States of Deliberation have not signified their agreement to the substance of the provision or Order in Council -
- (i) the Royal Court shall refer the provision or Order in Council, as the case may be, to the Policy and Resources Committee, and
 - (ii) the Policy and Resources Committee shall, unless that Committee considers it unnecessary, submit it to the States in accordance with paragraph (1)."

- 8.2 Article 72A(1)(b)(i) requires the Policy & Resources Committee to submit to the

States of Deliberation any proposal for an Order in Council to be made to extend to Guernsey provisions of Acts of Parliament of the UK, in order that the States can signify their views on it. The Policy & Resources Committee is submitting this Policy Letter (together with the Committee *for* Home Affairs) to fulfil that obligation.

- 8.3 Both Committees recommend to the States that the States signify their agreement to the proposed Order in Council, so that when the Order in Council is made and transmitted to the Royal Court for registration in due course, the Royal Court can register that Order in Council without delay and without further reference to the Policy & Resources Committee, in accordance with Article 72A(2)(b).

9 Consultation

- 9.1 The States of Alderney have been consulted about extending the relevant provisions of the Immigration Acts to Alderney. The Policy & Finance Committee of the States of Alderney has considered the matter and had no comment.
- 9.2 The Chief Pleas of Sark have been consulted about extending the relevant provisions of the Immigration Acts to Sark. At the time of writing this Policy Letter, no comments have been received.
- 9.3 As a matter of courtesy, the Data Protection Authority has also been consulted about extending to the Bailiwick the provisions of the Immigration Acts relating to biometric data. The Authority highlighted the importance of ensuring that all personal data processing is confined to the stated, narrow purposes with appropriate governance.

10 Compliance with Rule 4

- 10.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 10.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 10.3 In regard to Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, it is not envisaged that additional resources will be required to fulfil the Propositions of this Policy Letter.
- 10.4 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of both Committees.

- 10.5 In accordance with Rule 4(5) of the Rules of Procedure of the States of Deliberation and their Committees, the Propositions relate to the duties of the Committee *for* Home Affairs because its mandate includes responsibilities to advise the States and develop and implement policies on matters including crime prevention, the immigration regime and data protection. Also, in accordance with that Rule, the Propositions relate to the duties of the Policy & Resources Committee because its mandate includes exercising powers and performing duties conferred on it by extant legislation (in this case, those in Article 72A of the Reform (Guernsey) Law).
- 10.6 The Committee *for* Home Affairs has consulted with other parties as outlined in Section 9 above, in accordance with Rule 4(5). It has not been necessary for the Policy & Resources Committee to consult with other parties in advance of publication of this Policy Letter as the Reform (Guernsey) Law only applies to Guernsey and the requirements of Article 72A are to bring the proposed extension of the relevant provisions of the Immigration Acts (and the substance of the proposed Order in Council) to the States for consideration.

Yours faithfully

Committee *for* Home Affairs

Policy & Resources Committee

R G Prow
President

P T R Ferbrache
President

S P J Vermeulen
Vice-President

H J Soulsby
Vice-President

C J Le Tissier
M P Leadbeater
A W Taylor

M A J Helyar
J P Le Tocq
D J Mahoney

STATUTORY INSTRUMENTS

2020 No.

IMMIGRATION

The Immigration (Guernsey) Order 2020

Made - - - - 2020

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 36 of the Immigration Act 1971 (¹), section 12(5) of the Immigration Act 1988, section 170(7) of the Immigration and Asylum Act 1999 (²), section 163(4) of the Nationality, Immigration and Asylum Act 2002 (³), section 60(4) of the UK Borders Act 2007 (⁴), section 76(6) of the Immigration Act 2014 (⁵) and section 8(2) and (3) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (⁶) 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 (Guernsey) Order 2020 and comes into force on the day specified by regulations made by the States of Guernsey Committee for Home Affairs; and different dates may be specified for different provisions and for different purposes.

(2) In this Order—

“the 1971 Act” means the Immigration Act 1971,

“the 1999 Act” means the Immigration and Asylum Act 1999,

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002,

(¹) 1971 c. 77.

(²) 1999 c. 33.

(³) 2002 c. 41.

(⁴) 2007 c. 30.

(⁵) 2014 c. 22.

(⁶) 2020 c. 20.

“the 2007 Act” means the UK Borders Act 2007,

“the 2014 Act” means the Immigration Act 2014,

“the 2020 Act” means the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020,

“Guernsey” means the Bailiwick of Guernsey, and

“relevant Act” means the 1971 Act, the 1999 Act, the 2002 Act, the 2007 Act, the 2014 Act or the 2020 Act.

(3) For the purposes of construing provisions of a relevant Act as part of the law of Guernsey, a reference to an enactment which extends to Guernsey is to be construed as a reference to that enactment as it has effect in Guernsey.

Extension of the 1999 Act to Guernsey

2. (1) Each provision of the 1999 Act specified in column 1 of Schedule 1 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 1999 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Column 3 of the schedule sets out the provision of the 1999 Act as extended to Guernsey.

Extension of the 2002 Act to Guernsey

3. (1) Each provision of the 2002 Act specified in column 1 of Schedule 2 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 2002 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Column 3 of the schedule sets out the provision of the 2002 Act as extended to Guernsey.

Extension of the 2007 Act to Guernsey

4. (1) Each provision of the 2007 Act specified in column 1 of Schedule 3 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 2007 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Column 3 of the schedule sets out the provision of the 2007 Act as extended to Guernsey.

Extension of the 2014 Act to Guernsey

5. (1) Each provision of the 2014 Act specified in column 1 of Schedule 4 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) A reference to a provision of the 2014 Act in column 1 is a reference to the provision as amended, substituted or inserted, as the case may be, by the other provisions specified in that column.

(3) Column 3 of the schedule sets out the provision of the 2014 Act as extended to Guernsey.

Extension of the 2020 Act to Guernsey

6. (1) Each provision of the 2020 Act specified in column 1 of Schedule 5 to this Order is extended to Guernsey with the modifications (if any) specified in column 2 of the schedule.

(2) Column 3 of the schedule sets out the provision of the 2020 Act as extended to Guernsey.

Amendments to the Immigration (Guernsey) Order 1993

7. In Part III of Schedule 1 to the Immigration (Guernsey) Order 1993 ⁽⁷⁾, omit paragraph (2).

Amendments to the Immigration and Asylum Act 1999 (Guernsey) Order 2003

8. In the Schedule to the Immigration and Asylum Act 1999 (Guernsey) Order 2003⁽⁸⁾ –
- (a) in the entry relating to section 141 (fingerprinting) of the 1999 Act, in the right-hand column, for the paragraph relating to subsection (5) of that section, for “omit subsection (5)(e)”, substitute “for paragraph (e), substitute the following paragraph –
“(e) any person who is an authorised person within the meaning of this subsection as it has effect in the United Kingdom.”,
 - (b) omit the entries relating to section 144 (other methods of collecting data about physical characteristics) and section 146 (use of force) of the 1999 Act, and
 - (c) in the entry relating to section 167 (interpretation) of the 1999 Act, in the right-hand column, in the entry relating to subsection (1) of that section –
 - (i) in paragraph (b), after ““the Commission””, insert ““,“the Immigration Acts””, and
 - (ii) omit paragraph (e).

Richard Tilbrook

Clerk of the Privy Council

⁽⁷⁾ S.I. 1993/1796.

⁽⁸⁾ S.I. 2003/2900.

SCHEDULE 1

Article 2

Extension and modification of provisions of the Immigration and Asylum Act 1999

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
Section 144 of the 1999 Act; as amended by section 128(1) of the 2002 Act; section 12(4) of, and paragraph 2(1), (2) and (3) of Schedule 2 to, the 2014 Act.	In subsection (1), for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs”. Immediately after subsection (2), insert the following subsections – “(3) Regulations under this Act - (a) may be amended or repealed by subsequent regulations made under this Act, (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and (c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations. (4) Any power conferred by this Act to make regulations may be exercised– (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; (b) so as to make, as respects the cases in relation to which it is exercised–	144 Other methods of collecting data about physical characteristics (1) The States of Guernsey Committee for Home Affairs may make regulations 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. (3) Regulations under this Act - (a) may be amended or repealed by subsequent regulations made under this Act, (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and (c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations. (4) Any power conferred by this Act to make regulations may be exercised– (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; (b) so as to make, as respects the cases in relation to which it is exercised– (i) the full provision to which the power extends, or any lesser

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
	(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise); (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes; (iii) any such provision either unconditionally or subject to any conditions specified in the regulations.”.	- provision (whether by way of exception or otherwise); (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes; (iii) any such provision either unconditionally or subject to any conditions specified in the regulations.
Section 144A of the 1999 Act; as inserted by section 14(2) of the 2014 Act.	In subsection (3), immediately after “in relation to”, insert “the destruction of”.	144A Use and retention of fingerprints etc (1) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to — (a) fingerprints taken by virtue of section 141, and (b) biometric information taken by virtue of regulations under section 144, as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act. (2) Regulations made by virtue of subsection (1)(a) must require fingerprints taken from a person (“F”) by virtue of section 141(7)(f) to be destroyed when fingerprints taken from the person whose dependant F is are destroyed. (3) Regulations made by virtue of subsection (1)(b) must make equivalent provision in relation to the destruction of biometric information taken by virtue of any provision of regulations under section 144 which is equivalent to section 141(7)(f).

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
Section 145 of the 1999 Act; as amended by section 128(2) of the 2002 Act.	In subsections (1), (2A) and (3), for “specified” wherever that expression occurs, substitute “prescribed”. For subsection (4), substitute the following subsection – “(4) “Prescribed” means prescribed by regulations made by the States of Guernsey Committee for Home Affairs.”. For subsection (6), substitute the following subsection – “(6) “Code” means any code of practice for the time being in force under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 or the Police and Criminal Evidence Act 1984.”. Omit subsection (7).	145 Codes of practice (1) An immigration officer exercising any prescribed power to— (a) arrest, question, search or take fingerprints from a person, (b) enter and search premises, or (c) seize property found on persons or premises, must have regard to such provisions of a code as may be prescribed. (2) Subsection (1) also applies to an authorised person exercising the power to take fingerprints conferred by section 141. (2A) A person exercising a power under regulations made by virtue of section 144 must have regard to such provisions of a code as may be prescribed. (3) Any prescribed provision of a code may have effect for the purposes of this section subject to such modifications as may be prescribed. (4) “Prescribed” means prescribed by regulations made by the States of Guernsey Committee for Home Affairs. (5) “Authorised person” has the same meaning as in section 141. (6) “Code” means any code of practice for the time being in force under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 or the Police and Criminal Evidence Act 1984.
Section 146 of the 1999 Act; as amended by section 153(2) of the 2002 Act; section 4 of, and paragraph 5 of Schedule 1 to, the 2014 Act.	For subsection (2), substitute the following subsection – “(2) Without limiting the generality of subsection (1), a person exercising a power under any of the following may if necessary use reasonable force— (a) section 141 or 142 of this Act, or (b) regulations under section 144 of this Act.”.	146 Use of force (1) An immigration officer exercising any power conferred on him by the Immigration Acts may, if necessary, use reasonable force. (2) Without limiting the generality of subsection (1), a person exercising a power under any of the following may if necessary use reasonable force— (a) section 141 or 142 of this Act, or

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		(b) regulations under section 144 of this Act.

SCHEDULE 2

Article 3

Extension and modification of provisions of the Nationality, Immigration and Asylum Act 2002

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
Section 126 of the 2002 Act; as amended by sections 8, 12(4), 14(3) and 73 of, paragraph 3(1) of Schedule 2 to, and paragraph 19 of Part 3 of Schedule 9 to, the 2014 Act.	In subsection (1), for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs”. In subsection (2) – (a) in paragraphs (b) and (c), for “United Kingdom”, substitute “Bailiwick of Guernsey”, (b) at the end of paragraph (b), insert “or”, and (c) omit paragraphs (d) and (e). Omit subsection (2A). In subsection (4) – (a) in paragraph (f), for “Secretary of State” substitute “prescribed authority”, and (b) omit paragraphs (h) and (i). Omit subsection (8). Immediately after subsection (8A), insert the following subsections – “(8B) Regulations under this Act— (a) may be amended or repealed by subsequent regulations made under this Act, (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be	126 Physical data: compulsory provision (1) The States of Guernsey Committee for Home Affairs may by regulations— (a) require an immigration application to be accompanied by specified biometric information; (b) enable an authorised person to require an individual who makes an immigration application to provide biometric information; (c) enable an authorised person to require an entrant to provide biometric information. (2) In subsection (1) “immigration application” means an application for— (a) entry clearance, (b) leave to enter or remain in the Bailiwick of Guernsey, or (c) variation of leave to enter or remain in the Bailiwick of Guernsey. [....] (3) Regulations under subsection (1) may not— (a) impose a requirement in respect of a person to whom section 141 of the Immigration and Asylum Act 1999 (c 33) (fingerprinting) applies, during the relevant period within the meaning of that section, or (b) enable a requirement to be imposed in respect of a person to whom that section applies, during the relevant period within the meaning of that section. (4) Regulations under subsection (1) may, in particular— (a) require, or enable an authorised person to require, the provision of biometric information in a specified form; (b) require an individual to submit, or enable an authorised person to require an

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	necessary or expedient, and (c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations. (8C) Any power conferred by this Act to make regulations may be exercised— (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; (b) so as to make, as respects the cases in relation to which it is exercised— (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise); (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes; (iii) any such provision either unconditionally or subject to any	individual to submit, to a specified process by means of which biometric information is obtained or recorded; (c) make provision about the effect of failure to provide biometric information or to submit to a process (which may, in particular, include provision for an application to be disregarded or dismissed if a requirement is not satisfied); (d) confer a function (which may include the exercise of a discretion) on an authorised person; (e) require an authorised person to have regard to a code (with or without modification); (f) require an authorised person to have regard to such provisions of a code (with or without modification) as may be specified by direction of the prescribed authority; (fa) provide for biometric information to be recorded on any document issued as a result of the application in relation to which the information was provided. [...] (6) In so far as regulations under subsection (1) require an individual under the age of 16 to submit to a process, the regulations must make provision similar to section 141(3) to (5) and (13) of the Immigration and Asylum Act 1999 (fingerprints: children). (7) In so far as regulations under subsection (1) enable an authorised person to require an individual under the age of 16 to submit to a process, the regulations must make provision similar to section 141(3) to (5), (12) and (13) of that Act (fingerprints: children). [...] (8A) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to biometric information provided in accordance with regulations under subsection (1) as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act. (8B) Regulations under this Act — (a) may be amended or repealed by subsequent regulations made under this Act,

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	conditions specified in the regulations.”. In subsection (9) – (a) in the definition of “code”, for “that Act”, substitute “the Immigration and Asylum Act 1999”, (b) in the definition of “entry clearance”, for “that Act”, substitute “the Immigration Act 1971”, and (c) insert, in the appropriate alphabetical order, the following definition – “ “prescribed authority” means the States of Guernsey Committee for Home Affairs, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations.”. Immediately after subsection (9), insert the following subsection – “(9A) The States of Guernsey Committee for Home Affairs may make regulations to prescribe any person as an authorised person.”.	(b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and (c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations. (8C) Any power conferred by this Act to make regulations may be exercised– (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; (b) so as to make, as respects the cases in relation to which it is exercised– (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise); (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes; (iii) any such provision either unconditionally or subject to any conditions specified in the regulations. (9) In this section— “authorised person” has the meaning given by section 141(5) of the Immigration and Asylum Act 1999 (authority to take fingerprints), “biometric information” has the meaning given by section 15 of the UK Borders Act 2007, “code” has the meaning given by section 145(6) of the Immigration and Asylum Act 1999 (code of practice), “document” includes a card or sticker and any other method of recording information (whether in writing or by the use of electronic or other technology or by a combination of methods),

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		“entrant” has the meaning given by section 33(1) of the Immigration Act 1971 (c 77) (interpretation), “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971, and “prescribed authority” means the States of Guernsey Committee for Home Affairs, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations. (9A) The States of Guernsey Committee for Home Affairs may make regulations to prescribe any person as an authorised person.
Section 127 of the 2002 Act; as amended by section 12(4) of, and paragraph 4 of Schedule 2 to, the 2014 Act.	In subsection (1) – (a) for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs”, and (b) for “United Kingdom”, substitute “Bailiwick of Guernsey”. In subsection (2), for “Secretary of State”, substitute “Committee”.	127 Physical data: voluntary provision (1) The States of Guernsey Committee for Home Affairs may operate a scheme under which an individual may supply, or submit to the obtaining or recording of, biometric information to be used (wholly or partly) in connection with entry to the Bailiwick of Guernsey. (2) In particular, the Committee may— (a) require an authorised person to use biometric information supplied under a scheme; (b) make provision about the collection, use and retention of biometric information supplied under a scheme which may include provision requiring an authorised person to have regard to a code; (c) charge for participation in a scheme. (3) In this section the following expressions have the same meaning as in section 126— (a) “authorised person”, (aa) “biometric information”, and (b) “code”.
Section 164 of the 2002 Act		164 Short title This Act may be cited as the Nationality, Immigration and Asylum Act 2002.

SCHEDULE 3

Article 4

Extension and modification of provisions of the UK Borders Act 2007

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
Section 5 of the 2007 Act	In subsection (1), for “Secretary of State”, substitute “Committee”. In subsection (2)(g), (h) and (i), for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”. In subsection (3) – (a) for “Secretary of State”, wherever that expression occurs, substitute “prescribed authority”, and (b) for “United Kingdom” wherever that expression occurs, substitute “Bailiwick of Guernsey”. In subsection (4) – (a) for “Secretary of State”, substitute “prescribed authority”, and (b) in paragraph (d), for “United Kingdom”, substitute “Bailiwick of Guernsey” and immediately after “(immigration rules)” insert “or directions under section 3A or 3B of that Act”. In subsection (5) – (a) for “Secretary of State”, wherever that expression occurs, substitute “prescribed authority”, and (b) in paragraph (d), for “Secretary of State’s”, substitute “prescribed authority’s”. In subsection (9) –	5 Registration regulations (1) The Committee may make regulations— (a) requiring a person subject to immigration control to apply for the issue of a document recording biometric information (a “biometric immigration document”); (b) requiring a biometric immigration document to be used— (i) for specified immigration purposes; (ii) in connection with specified immigration procedures; or (iii) in specified circumstances, where a question arises about a person's status in relation to nationality or immigration; (c) requiring a person who produces a biometric immigration document by virtue of paragraph (b) to provide information for comparison with information provided in connection with the application for the document. (2) Regulations under subsection (1)(a) may, in particular— (a) apply generally or only to a specified class of persons subject to immigration control (for example, persons making or seeking to make a specified kind of application for immigration purposes); (b) specify the period within which an application for a biometric immigration document must be made; (c) make provision about the issue of biometric immigration documents; (d) make provision about the content of biometric immigration documents (which may include non-biometric information);

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<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
	(a) immediately after “(c 77)”, insert “or directions under section 3A or 3B of that Act”, and (b) for “Secretary of State”, substitute “prescribed authority”. Omit subsection (10).	(e) make provision permitting a biometric immigration document to be combined with another document; (f) make provision for biometric immigration documents to begin to have effect, and cease to have effect, in accordance with the regulations; (g) require a person who acquires a biometric immigration document, without the consent of the person to whom it relates or of the prescribed authority, to surrender it to the prescribed authority as soon as is reasonably practicable; (h) permit the prescribed authority to require the surrender of a biometric immigration document in other specified circumstances; (i) permit the prescribed authority on issuing a biometric immigration document to require the surrender of other documents connected with immigration or nationality. (3) Regulations under subsection (1)(a) may permit the prescribed authority to cancel a biometric immigration document— (a) if the prescribed authority thinks that information provided in connection with the document was or has become false, misleading or incomplete, (b) if the prescribed authority thinks that the document has been lost or stolen, (c) if the prescribed authority thinks that the document (including any information recorded in it) has been altered, damaged or destroyed (whether deliberately or not), (d) if the prescribed authority thinks that an attempt has been made (whether successfully or not) to copy the document or to do anything to enable it to be copied, (e) if the prescribed authority thinks that a person has failed to surrender the document in accordance with subsection (2)(g) or (h),

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<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
		(f) if the prescribed authority thinks that the document should be re-issued (whether because the information recorded in it requires alteration or for any other reason), (g) if the prescribed authority thinks that the holder is to be given leave to enter or remain in the Bailiwick of Guernsey, (h) if the prescribed authority thinks that the holder's leave to enter or remain in the Bailiwick of Guernsey is to be varied, cancelled or invalidated or to lapse, (i) if the prescribed authority thinks that the holder has died, (j) if the prescribed authority thinks that the holder has been removed from the Bailiwick of Guernsey (whether by deportation or otherwise), (k) if the prescribed authority thinks that the holder has left the Bailiwick of Guernsey without retaining leave to enter or remain, and (l) in such other circumstances as the regulations may specify. (4) Regulations under subsection (1)(a) may require notification to be given to the prescribed authority by the holder of a biometric immigration document— (a) who knows or suspects that the document has been lost or stolen, (b) who knows or suspects that the document has been altered or damaged (whether deliberately or not), (c) who knows or suspects that information provided in connection with the document was or has become false, misleading or incomplete, (d) who was given leave to enter or remain in the Bailiwick of Guernsey in accordance with a provision of rules under section 3 of the Immigration Act 1971 (c 77) (immigration rules) or directions under section 3A or 3B of that Act and knows or suspects that owing to a change of the holder's circumstances the holder would no

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		longer qualify for leave under that provision, or (e) in such other circumstances as the regulations may specify. (5) Regulations under subsection (1)(a) may require a person applying for the issue of a biometric immigration document to provide information (which may include biographical or other non-biometric information) to be recorded in it or retained by the prescribed authority; and, in particular, the regulations may— (a) require, or permit an authorised person to require, the provision of information in a specified form; (b) require an individual to submit, or permit an authorised person to require an individual to submit, to a specified process by means of which biometric information is obtained or recorded; (c) confer a function (which may include the exercise of a discretion) on an authorised person; (d) permit the prescribed authority, instead of requiring the provision of information, to use or retain information which is (for whatever reason) already in the prescribed authority's possession. (6) Regulations under subsection (1)(b) may, in particular, require the production or other use of a biometric immigration document that is combined with another document. (7) Regulations under subsection (1)(b) may not make provision the effect of which would be to require a person to carry a biometric immigration document at all times. (8) Regulations under subsection (1)(c) may, in particular, make provision of a kind specified in subsection (5)(a) or (b). (9) Rules under section 3 of the Immigration Act 1971 (c 77) or directions under section 3A or 3B of that Act may require a person applying for the issue of a biometric immigration document to provide

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		non-biometric information to be recorded in it or retained by the prescribed authority.
Section 6 of the 2007 Act	In subsection (4), immediately after “(immigration rules)”, insert “or directions under section 3A or 3B of that Act”. In subsection (5), for “Secretary of State’s”, substitute “prescribed authority’s”. Omit subsection (6).	6 Regulations: supplemental (1) This section applies to regulations under section 5(1). (2) Regulations amending or replacing earlier regulations may require a person who holds a biometric immigration document issued under the earlier regulations to apply under the new regulations. (3) In so far as regulations require an individual under the age of 16 to submit to a process for the recording of biometric information, or permit an authorised person to require an individual under the age of 16 to submit to a process of that kind, the regulations must make provision similar to section 141(3) to (5) and (13) of the Immigration and Asylum Act 1999 (c. 33) (fingerprints: children). (4) Rules under section 3 of the Immigration Act 1971 (immigration rules) or directions under section 3A or 3B of that Act may make provision by reference to compliance or non-compliance with regulations. (5) Information in the prescribed authority's possession which is used or retained in accordance with regulations under section 5(5)(d) shall be treated, for the purpose of requirements about treatment and destruction, as having been provided in accordance with the regulations at the time at which it is used or retained in accordance with them.
Section 7 of the 2007 Act; as amended by section 11 of the 2014 Act	In subsection (2) – (a) in paragraph (c), for “United Kingdom”, substitute “Bailiwick of Guernsey”, and (b) in paragraphs (d) and (e), for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”.	7 Effect of non-compliance (1) Regulations under section 5(1) must include provision about the effect of failure to comply with a requirement of the regulations. (2) In particular, the regulations may— (a) require or permit an application for a biometric immigration document to be refused; (b) require or permit an application or claim in connection with immigration to be disregarded or refused;

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	In subsection (3), for “Secretary of State”, substitute “prescribed authority”.	(c) require or permit the cancellation or variation of leave to enter or remain in the Bailiwick of Guernsey; (d) require the prescribed authority to consider giving a notice under section 9; (e) provide for the consequence of a failure to be at the discretion of the prescribed authority. (2A) If the regulations require a biometric immigration document to be used in connection with an application or claim, they may require or permit the application or claim to be disregarded or refused if that requirement is not complied with. (3) The regulations may also permit the prescribed authority to designate an adult as the person responsible for ensuring that a child complies with requirements of the regulations; and for that purpose— (a) “adult” means an individual who has attained the age of 18, (b) “child” means an individual who has not attained the age of 18, and (c) sections 9 to 13 shall apply (with any necessary modifications) to a designated adult's failure to ensure compliance by a child with a requirement of regulations as they apply to a person's own failure to comply with a requirement.
Section 8 of the 2007 Act; as substituted by section 14(1) of the 2014 Act	In subsection (1) – (a) for “Secretary of State” the first time that expression occurs, substitute “Committee”, and (b) for “Secretary of State” the second time that expression occurs, substitute “prescribed authority”. In subsection (2), for “Secretary of State”, substitute “prescribed authority”.	8 Use and retention of biometric information (1) The Committee must by regulations make provision about the use and retention by the prescribed authority of biometric information provided in accordance with regulations under section 5(1). (2) The regulations must provide that biometric information may be retained only if the prescribed authority thinks that it is necessary to retain it for use in connection with— (a) the exercise of a function by virtue of the Immigration Acts, or

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	In subsection (3)(b), for “Secretary of State”, substitute “prescribed authority”. In subsection (5) – (a) for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”, and (b) in paragraph (b), for “United Kingdom”, substitute “Bailiwick of Guernsey”. In subsections (6)(b) and (8)(a) and (b), for “Secretary of State” wherever that expression occurs, substitute “prescribed authority”. Omit subsection (9).	(b) the exercise of a function in relation to nationality. (3) The regulations may include provision permitting biometric information retained by virtue of subsection (2) also to be used— (a) in connection with the prevention, investigation or prosecution of an offence, (b) for a purpose which appears to the prescribed authority to be required in order to protect national security, (c) in connection with identifying persons who have died, or are suffering from illness or injury, (d) for the purpose of ascertaining whether a person has acted unlawfully, or has obtained or sought anything to which the person is not legally entitled, and (e) for such other purposes (whether in accordance with functions under an enactment or otherwise) as the regulations may specify. (4) The regulations must include provision about the destruction of biometric information. (5) In particular the regulations must require the prescribed authority to take all reasonable steps to ensure that biometric information is destroyed if the prescribed authority— (a) no longer thinks that it is necessary to retain the information for use as mentioned in subsection (2), or (b) is satisfied that the person to whom the information relates is a British citizen, or a Commonwealth citizen who has a right of abode in the Bailiwick of Guernsey as a result of section 2(1)(b) of the Immigration Act 1971. (6) The regulations must also— (a) require that any requirement to destroy biometric information by virtue of the regulations also applies to copies of the information, and (b) require the prescribed authority to take all reasonable steps to ensure—

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		(i) that data held in electronic form which relates to biometric information which has to be destroyed by virtue of the regulations is destroyed or erased, or (ii) that access to such data is blocked. (7) But a requirement to destroy biometric information or data is not to apply if and in so far as the information or data is retained in accordance with and for the purposes of another power. (8) The regulations must include provision— (a) entitling a person whose biometric information has to be destroyed by virtue of the regulations, on request, to a certificate issued by the prescribed authority to the effect that the prescribed authority has taken the steps required by virtue of subsection (6)(b); and (b) requiring such a certificate to be issued within the period of 3 months beginning with the date on which the request for it is received by the prescribed authority.
Section 9 of the 2007 Act	In subsection (1) – (a) for “Secretary of State”, substitute “Committee”, and (b) immediately after “pay a”, insert “civil”. In subsection (2)(b) and (d), for “Secretary of State” wherever that expression occurs, substitute “Committee”. In subsection (3), for “£1,000”, substitute – “– (a) £1,000, or (b) any other amount that may be prescribed by order of the Lieutenant Governor to reflect a change in the value of money.”.	9 Penalty (1) The Committee may by notice require a person to pay a civil penalty for failing to comply with a requirement of regulations under section 5(1). (2) The notice must— (a) specify the amount of the penalty, (b) specify a date before which the penalty must be paid to the States of Guernsey, (c) specify methods by which the penalty may be paid, (d) explain the grounds on which the Committee thinks the person has failed to comply with a requirement of the regulations, and (e) explain the effect of sections 10 to 12. (3) The amount specified under subsection (2)(a) may not exceed – (a) £1,000, or

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	For subsection (6), substitute the following subsection – “(6) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an order under subsection (3)(b).”.	(b) any other amount that may be prescribed by order of the Lieutenant Governor to reflect a change in the value of money. (4) The date specified under subsection (2)(b) must be not less than 14 days after the date on which the notice is given. (5) A person who has been given a notice under subsection (1) for failing to comply with regulations may be given further notices in the case of continued failure; but a person may not be given a new notice— (a) during the time available for objection or appeal against an earlier notice, or (b) while an objection or appeal against an earlier notice has been instituted and is neither withdrawn nor determined. (6) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an order under subsection (3)(b).
Section 10 of the 2007 Act	In subsections (1), (3) and (4), for “Secretary of State” wherever that expression occurs, substitute “Committee”.	10 Penalty: objection (1) A person (P) who is given a penalty notice under section 9(1) may by notice to the Committee object on the grounds— (a) that P has not failed to comply with a requirement of regulations under section 5(1), (b) that it is unreasonable to require P to pay a penalty, or (c) that the amount of the penalty is excessive. (2) A notice of objection must— (a) specify the grounds of objection and P's reasons, (b) comply with any prescribed requirements as to form and content, and (c) be given within the prescribed period. (3) The Committee shall consider a notice of objection and— (a) cancel the penalty notice, (b) reduce the penalty by varying the penalty notice,

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		(c) increase the penalty by issuing a new penalty notice, or (d) confirm the penalty notice. (4) The Committee shall act under subsection (3) and notify P— (a) in accordance with any prescribed requirements, and (b) within the prescribed period or such longer period as the Committee and P may agree.
Section 11 of the 2007 Act	In subsection (1), for “–” and paragraphs (a) and (b), substitute “the Court”. In subsection (3), for “court or sheriff”, wherever that expression occurs, substitute “Court”. In subsection (4)(b), for “Secretary of State’s”, substitute “Committee’s”. In subsection (5), for “court or sheriff” and “Secretary of State” respectively, substitute “Court” and “Committee”. In subsection (6), immediately after “section”, insert “, but in the absence of such rules, an appeal must be brought within 28 days of P being given the penalty notice under section 9(1)”. Immediately after subsection (6), insert the following subsection – “(7) In this section, “the Court”, in relation to any appeal, means– (a) if the appellant is ordinarily resident in Alderney, the Court of Alderney, (b) if the appellant is ordinarily resident in Sark, the Court of the Seneschal, and (c) in any other case, the Royal Court of Guernsey.”.	11 Penalty: appeal (1) A person (P) who is given a penalty notice under section 9(1) may appeal to the Court. (2) An appeal may be brought on the grounds— (a) that P has not failed to comply with a requirement of regulations under section 5(1), (b) that it is unreasonable to require P to pay a penalty, or (c) that the amount of the penalty is excessive. (3) The Court may— (a) cancel the penalty notice, (b) reduce the penalty by varying the penalty notice, (c) increase the penalty by varying the penalty notice (whether because the Court thinks the original amount insufficient or because the Court thinks that the appeal should not have been brought), or (d) confirm the penalty notice. (4) An appeal may be brought— (a) whether or not P has given a notice of objection, and (b) irrespective of the Committee’s decision on any notice of objection. (5) The Court may consider matters of which the Committee was not and could not have been aware before giving the penalty notice.

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<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
		(6) Rules of court may make provision about the timing of an appeal under this section, but in the absence of such rules, an appeal must be brought within 28 days of P being given the penalty notice under section 9(1). (7) In this section, “the Court”, in relation to any appeal, means – (a) if the appellant is ordinarily resident in Alderney, the Court of Alderney, (b) if the appellant is ordinarily resident in Sark, the Court of the Seneschal, and (c) in any other case, the Royal Court of Guernsey.
Section 12 of the 2007 Act	In subsections (1), (2), (3) and (5), for “Secretary of State” wherever that expression occurs, substitute “Committee”. In subsection (5), for “Consolidated Fund”, substitute “general revenue account of the States of Guernsey”.	12 Penalty: enforcement (1) Where a penalty has not been paid before the date specified in the penalty notice in accordance with section 9(2)(b), it may be recovered as a debt due to the Committee. (2) Where a notice of objection is given in respect of a penalty notice, the Committee may not take steps to enforce the penalty notice before— (a) deciding what to do in response to the notice of objection, and (b) informing the objector. (3) The Committee may not take steps to enforce a penalty notice while an appeal under section 11— (a) could be brought (disregarding any possibility of an appeal out of time with permission), or (b) has been brought and has not been determined or abandoned. (4) In proceedings for the recovery of a penalty no question may be raised as to the matters specified in sections 10 or 11 as grounds for objection or appeal. (5) Money received by the Committee in respect of a penalty must be paid into the general revenue account of the States of Guernsey.
Section 13 of the 2007 Act	In subsection (1), for “Secretary of State shall”, substitute “Committee may”.	13 Penalty: code of practice

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
	In subsection (2), for “Secretary of State”, substitute “Committee”. In subsection (3), delete “or the sheriff”. In subsection (4), for “Secretary of State”, substitute “Committee”. In subsection (5) – (a) for “Secretary of State”, substitute “Committee”, and (b) omit paragraph (c).	(1) The Committee may issue a code of practice setting out the matters to be considered in determining— (a) whether to give a penalty notice under section 9(1), and (b) the amount of a penalty. (2) The code may, in particular, require the Committee to consider any decision taken by virtue of section 7. (3) A court shall, when considering an appeal under section 11, have regard to the code. (4) The Committee may revise and re-issue the code. (5) Before issuing or re-issuing the code the Committee must— (a) publish proposals, and (b) consult members of the public. [...] (6) The code (or re-issued code) comes into force at the prescribed time.
Section 14 of the 2007 Act	In subsection (1), for “Secretary of State by order”, substitute “Committee by regulations”. For subsections (2) and (3), substitute the following subsections – “(2) Regulations under this Act– (a) may be amended or repealed by subsequent regulations made under this Act, (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and (c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to	14 Penalty: prescribed matters (1) In sections 10 to 13, “prescribed” means prescribed by the Committee by regulations. (2) Regulations under this Act– (a) may be amended or repealed by subsequent regulations made under this Act, (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and (c) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations. (3) Any power conferred by this Act to make regulations may be exercised –

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
	annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations. (3) Any power conferred by this Act to make regulations may be exercised – (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; (b) so as to make, as respects the cases in relation to which it is exercised- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise); (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes; (iii) any such provision either unconditionally or subject to any conditions specified in the regulations.”.	(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; (b) so as to make, as respects the cases in relation to which it is exercised- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise); (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes; (iii) any such provision either unconditionally or subject to any conditions specified in the regulations.
Section 15 of the 2007 Act; as amended by section 12(2) and (3) of the 2014 Act;	In subsection (1) – (a) for “section 5”, substitute “this Act”, (b) in paragraph (a), for “United Kingdom”, substitute “Bailiwick of Guernsey”, (c) immediately after paragraph (e), insert the following paragraphs –	15 Interpretation (1) For the purposes of this Act — (a) “person subject to immigration control” means a person who under the Immigration Act 1971 (c 77) requires leave to enter or remain in the Bailiwick of Guernsey (whether or not such leave has been given), [...]

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
	“(ea) “the Committee” means the States of Guernsey Committee for Home Affairs, (eb) “prescribed authority” means the Committee, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations,” and (d) in paragraph (g), for “the Secretary of State” wherever that expression occurs, substitute “a prescribed authority”. In subsection (1A) – (a) for “section 5”, substitute “this Act”, and (b) in paragraph (b), for “specified in an order made by the Secretary of State”, substitute “prescribed by regulations made by the Committee”. In subsection (1B), for “An order”, substitute “Regulations”. Omit subsection (1C). In subsection (2) – (a) for “–” and paragraphs (a) and (b), substitute “sections 67A, 67B, 67C and 68 of the Immigration Act 2014;”, and (b) for “either”, substitute “any”.	(d) “document” includes a card or sticker and any other method of recording information (whether in writing or by the use of electronic or other technology or by a combination of methods), (e) “authorised person” has the meaning given by section 141(5) of the Immigration and Asylum Act 1999 (c. 33) (authority to take fingerprints), (ea) “the Committee” means the States of Guernsey Committee for Home Affairs, (eb) “prescribed authority” means the Committee, the Lieutenant Governor, any other person or any two or more of these persons, as prescribed by the regulations, (f) “immigration” includes asylum, and (g) regulations permitting something to be done by a prescribed authority may (but need not) permit it to be done only where a prescribed authority is of a specified opinion. (1A) For the purposes of this Act “biometric information” means— (a) information about a person's external physical characteristics (including in particular fingerprints and features of the iris), and (b) any other information about a person's physical characteristics prescribed by regulations made by the Committee. (1B) Regulations under subsection (1A)(b)— (a) may prescribe only information that can be obtained or recorded by an external examination of a person, and (b) must not prescribe information about a person's DNA. [...] (2) An application for a biometric immigration document is an application in connection with immigration for the purposes of sections 67A, 67B, 67C and 68 of the Immigration Act 2014; and in the application of any of those sections to an

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
		application for a biometric immigration document, the prescribed consequences of non-compliance may include any of the consequences specified in section 7(2) above.
Section 61 of the 2007 Act	In subsection (2) – (a) omit paragraphs (c), (g) and (k), and (b) after paragraph (j), omit “and” and insert “to the extent that those enactments are extended (with modifications, if any) to the Bailiwick of Guernsey.”. Omit subsections (3) and (4).	61 Citation (1) This Act may be cited as the UK Borders Act 2007. (2) A reference (in any enactment, including one passed or made before this Act) to “the Immigration Acts” is to – (a) the Immigration Act 1971 (c 77), (b) the Immigration Act 1988 (c 14), [...] (d) the Asylum and Immigration Act 1996 (c 49), (e) the Immigration and Asylum Act 1999 (c 33), (f) the Nationality, Immigration and Asylum Act 2002 (c 41), [...] (h) the Immigration, Asylum and Nationality Act 2006 (c 13), (i) this Act, and (j) the Immigration Act 2014, to the extent that those enactments are extended (with modifications, if any) to the Bailiwick of Guernsey.

SCHEDULE 4

Article 5

Extension and modification of provisions of the Immigration Act 2014

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
Section 9 of the 2014 Act		9 Identifying persons liable to detention In paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take steps for identifying persons detained under paragraph 16 of that Schedule), after “detained” insert “or liable to be detained”.
Section 12 of the 2014 Act	Omit subsections (1), (2) and (3).	12 Meaning of “biometric information” [...] (4) Schedule 2 (which amends other enactments) has effect.
Section 13 of the 2014 Act	In subsection (2) – (a) in the new paragraph (7)(a) to be inserted in paragraph 4 of Schedule 2 to the Immigration Act 1971 Act, for “chief”, substitute “senior”, and in the new paragraph (8)(a) to be inserted in paragraph 4 of Schedule 2 to the Immigration Act 1971 Act, for “officer of the Secretary of State”, substitute “officer responsible to the States of Guernsey Committee for Home Affairs”.	13 Safeguards for children (1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows. (2) In paragraph 4 (power to take biometric information on examination), after sub-paragraph (6) (as inserted by paragraph 1(3) of Schedule 2) insert — “(7) A person (“P”) who is under 16 may not be required to provide biometric information under sub-paragraph (5) unless— (a) the decision to require P to provide the information has been confirmed by a senior immigration officer, and (b) the information is provided in the presence of a person of full age who is— (i) P’s parent or guardian, or (ii) a person who for the time being takes responsibility for P. (8) The person mentioned in sub-paragraph (7)(b)(ii) may not be— (a) a person who is entitled to require the provision of information under sub-paragraph (5) (an “authorised person”), or

		(b) an officer responsible to the States of Guernsey Committee for Home Affairs who is not such a person.
		(9) Sub-paragraph (7) does not prevent an authorised person requiring the provision of biometric information by a person the authorised person reasonably believes to be 16 or over.” (3) In paragraph 18 (power to take biometric information from detained persons), after sub-paragraph (2A) insert — “(2B) Paragraph 4(7) to (9) applies to sub-paragraph (2) as it applies to paragraph 4(5).”
Section 77 of the 2014 Act		77 Short title This Act may be cited as the Immigration Act 2014.
Schedule 2 to the 2014 Act	Omit paragraphs 2, 3, 4 and 5 of this schedule, including their headings.	SCHEDULE 2 Meaning of Biometric Information Section 12 <i>Immigration Act 1971 (c 77)</i> 1 (1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows. (2) In paragraph 4(5) — (a) after “provide” insert “biometric”; (b) omit from “about his external physical characteristics” to the end. (3) After paragraph 4(5) insert — “(6) “Biometric information” has the meaning given by section 15 of the UK Borders Act 2007.” (4) In paragraph 18(2A), for “fingerprints”, substitute “biometric information (within the meaning given by section 15 of the UK Borders Act 2007)”.

SCHEDULE 5

Article 6

Extension and modification of provisions of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020

Column 1	Column 2	Column 3
<i>Provision</i>	<i>Modifications</i>	<i>Provision as extended to Guernsey</i>
The heading of Part 1 of the 2020 Act		PART 1 MEASURES RELATING TO ENDING FREE MOVEMENT
Section 1 of the 2020 Act	For this section, substitute— “1 Repeal of section 7 of the Immigration Act 1988 Section 7 of the Immigration Act 1988 is repealed.”.	1 Repeal of section 7 of the Immigration Act 1988 Section 7 of the Immigration Act 1988 is repealed.

Section 2 of the 2020 Act	In subsection (2), in section 3ZA that is inserted in the 1971 Act — (a) for “United Kingdom” in each place the expression occurs, substitute “Bailiwick of Guernsey”, and (b) for “Secretary of State” in each place the expression occurs, substitute “Lieutenant Governor”. In subsection (4), in the reference to Schedule 4 to the 1971 Act, for “integration with UK law of immigration law of the Islands”, substitute “integration with Guernsey law of immigration laws of the United Kingdom, Jersey and the Isle of Man”.	2 Irish citizens: entitlement to enter or remain without leave (1) The Immigration Act 1971 is amended as follows. (2) After section 3 insert — “3ZA Irish citizens (1) An Irish citizen does not require leave to enter or remain in the Bailiwick of Guernsey, unless subsection (2), (3) or (4) applies to that citizen. (2) This subsection applies to an Irish citizen if the Irish citizen is subject to a deportation order made under section 5(1). (3) This subsection applies to an Irish citizen if— (a) the Lieutenant Governor has issued directions for the Irish citizen not to be given entry to the Bailiwick of Guernsey on the ground that the Irish citizen’s exclusion is conducive to the public good, (b) the Lieutenant Governor has given the Irish citizen notice of the directions, and (c) the directions have not been withdrawn. (4) This subsection applies to an Irish citizen if the Irish citizen is an excluded person for the purposes of section 8B (persons excluded under certain instruments). (5) Where subsection (2), (3) or (4) applies to an Irish citizen, section 1(3) does not permit the Irish citizen to enter the Bailiwick of Guernsey without leave on arriving in the Bailiwick of Guernsey on a local journey from any place in the common travel area.” (3) In section 9 (further provisions about the common travel area)— (a) in subsection (2), in the closing words, after “British citizens” insert “or Irish citizens”;
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		(b) in subsection (4), in the opening words, after “British citizen” insert “or an Irish citizen”.
		(4) In Schedule 4 (integration with Guernsey law of immigration laws of the United Kingdom, Jersey and the Isle of Man)— (a) in paragraph 1, in sub-paragraphs (1) and (2), after “British citizen” insert “or an Irish citizen”; (b) in paragraph 4, after “British citizen” insert “or an Irish citizen”.
Section 4 of the 2020 Act	In subsection (1) – (a) omit paragraph (a), and (b) in paragraph (b), for “(k)”, substitute “(j)”. Omit subsection (2).	4 Meaning of “the Immigration Acts” etc. (1) In section 61 of the UK Borders Act 2007, in subsection (2) (which defines “the Immigration Acts”) – [...] (b) after paragraph (j) insert “, and “(l) Part 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (and Part 3 so far as relating to that Part).”

Section 5 of the 2020 Act	For subsection (1), substitute— “(1) The States of Guernsey Committee for Home Affairs may by regulations make such provision as the committee considers appropriate in consequence of, or in connection with, any provision of this Part.”. In subsection (2), for “—” and paragraphs (a) and (b), substitute “any provision extended or made by an Order in Council extending legislation of the United Kingdom to the Bailiwick of Guernsey, or any direction, order, rule or other provision issued, given or otherwise made under any such provision, where the provision to be modified was made on or before the appointed day.”. In subsection (4)— (a) for “coming into force of the repeal of section 7(1) of the Immigration Act 1988 by paragraph 1 of Schedule 1”, substitute “appointed day”, (b) for “that Act”, substitute “the Immigration Act 1988”, and (c) for “United Kingdom”, substitute “Bailiwick of Guernsey”. In subsection (5), for “primary legislation passed before, or in the same Session as, this Act”, substitute “any of the Immigration Acts extended to the Bailiwick of Guernsey on or before the appointed day.”. For subsection (6), substitute the following subsection – “(6) Regulation under subsection (1) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul	5 Consequential etc. provision (1) The States of Guernsey Committee for Home Affairs may by regulations make such provision as the committee considers appropriate in consequence of, or in connection with, any provision of this Part. (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision extended or made by an Order in Council extending legislation of the United Kingdom to the Bailiwick of Guernsey, or any direction, order, rule or other provision issued, given or otherwise made under any such provision, where the provision to be modified was made on or before the appointed day. (3) The power to make regulations under subsection (1) includes power— (a) to make supplementary, incidental, transitional, transitory or saving provision; (b) to make different provision for different purposes. (4) Regulations under subsection (1) may (among other things) make provision applying to persons who, immediately before the appointed day, were not entitled by virtue of section 7(1) of the Immigration Act 1988 to enter or remain in the Bailiwick of Guernsey without leave. (5) Regulations under subsection (1) may (among other things) modify provision relating to the imposition of fees or charges which is made by or under any of the Immigration Acts extended to the Bailiwick of Guernsey on or before the appointed day. (6) Regulation under subsection (1) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.
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	them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.”. Omit subsections (7), (8), (9) and (10).	
The heading of Part 3 of the 2020 Act		PART 3 GENERAL
Section 7 of the 2020 Act	Insert this definition in the appropriate alphabetical order— ““appointed day” means the day on which article 6 of the Immigration (Guernsey) Order 2020 comes into force;”. Omit the definitions of “devolved authority”, “domestic law”, “Minister of the Crown” and “primary legislation”.	7 Interpretation In this Act — “appointed day” means the day on which article 6 of the Immigration (Guernsey) Order 2020 comes into force; and “modify” includes amend, repeal or revoke (and related expressions are to be read accordingly).
Section 10 of the 2020 Act		10 Short title This Act may be cited as the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the following provisions to the Bailiwick of Guernsey with modifications –

- (a) sections 144, 144A, 145 and 146 of the Immigration and Asylum Act 1999,
- (b) sections 126, 127 and 164 of the Nationality, Immigration and Asylum Act 2002,
- (c) sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 61(1) of the UK Borders Act 2007,
- (d) sections 9, 12(4), 13 and 77 of, and paragraph 1 of Schedule 2 to, the Immigration Act 2014, and
- (e) sections 1, 2, 4, 5, 7 and 10 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (“the 2020 Act”).

The provisions of the 2020 Act, as extended and modified –

- (a) repeal provisions relating to free movement of EEA citizens and their family members and bring them under Bailiwick immigration control,
- (b) protect the status of Irish citizens in Bailiwick immigration law once their EU free movement rights are ended in the United Kingdom, and
- (c) empower the States of Guernsey Committee for Home Affairs to make regulations to amend legislation in consequence of, or in connection with, the ending of free movement.

The provisions of the other Acts, as extended and modified, empower the States of Guernsey Committee for Home Affairs to make regulations to –

- (a) require or permit biometric information to be collected or provided,
- (b) provide for biometric immigration documents to be issued and used for immigration and nationality purposes, and
- (c) provide for the implementation of a system of biometric registration.

These provisions also provide for safeguards in connection with the collection, use and retention of biometric information.