EXPLANATORY MEMORANDUM TO

THE DIGITAL GOVERNMENT (DISCLOSURE OF INFORMATION) (IDENTITY VERIFICATION SERVICES) REGULATIONS 2024

2024 No. 64

1. Introduction

1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument creates a new objective under Chapter 1 of Part 5 of the Digital Economy Act 2017 ("the Act"), with a view to facilitating access to public services online. To achieve this, the instrument specifies the Digital Identity Verification Services objective as a new objective under section 35 of the Act (disclosure of information to improve public service delivery). It does this by amending Part 1 of Schedule 4 to the Act so as to add four persons to the existing list of UK and English bodies; it then describes the new objective by reference to its purposes; and it specifies those bodies who are permitted to disclose or receive information relating to the new objective.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales, and Scotland. Section 35 of the Act extends to England and Wales, Scotland and Northern Ireland but has not yet been commenced in relation to Northern Ireland. Accordingly, this instrument does not extend to Northern Ireland. It is drafted in a way that could be amended in future to extend to Northern Ireland if that were required.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales and Scotland.

5. European Convention on Human Rights

5.1 The Parliamentary Secretary for the Cabinet Office Alex Burghart has made the following statement regarding Human Rights:

"In my view the provisions of the Digital Government (Disclosure of Information) (Identity Verification Services) Regulations 2024 are compatible with the Convention rights."

6. Legislative Context

6.1 The main instrument made previously using powers from Chapter 1 of Part 5 of the Act is the Digital Government (Disclosure of Information) Regulations 2018 (S.I.

2018/912); it specified objectives relating to fuel poverty, water poverty, multiple disadvantages, and television retuning. This instrument is being made to allow for individuals to verify their identity online in a safe and secure way, with a view to facilitating access to public services.

7. Policy background

What is being done and why?

7.1 Section 35 of the Act is intended to assist public authorities to use information-sharing to target public services more effectively towards those who need them. As with other provisions in Part 5 of the Act, section 35 enables the provision of clear legal gateways to facilitate the sharing of information between public authorities. To ensure that any information-sharing under section 35 is justified and proportionate, it permits public authorities to share information only for purposes consistent with tightly constrained "objectives", which are set out in regulations. This instrument adds a new objective relating to digital identity verification.

7.2 Chapter 1 of Part 5 of the Act already allows specified authorities to share data to help individuals and household in relation to the objectives of fuel poverty, water poverty, multiple disadvantages, and television retuning.

7.3 The public expects quick, secure and user-friendly access to government services. At present, however, UK citizens and residents need to grapple with multiple sign-in methods and identity verification routes when using government services online.

7.4 These duplicative systems are being replaced with a single account and identity checking system. This will make it easier for users to access the services they need, reduce costs to the government and provide stronger protections against fraud. It is a high priority for the Government.

7.5 The new system offers greater flexibility than previous ones and when fully rolled out will allow people - notably those currently excluded from online routes - to use a wider range of information to prove their identity, including data held by named government departments.

7.6 The instrument provides the statutory basis for this data sharing and allows specified public bodies to share data in order to verify an individual's identity in a safe and secure way, so that they can then access public services online.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Cabinet Office has no plans currently to consolidate the legislation relevant to this instrument.

10. Consultation outcome

10.1 The Government held a public consultation on a draft of the instrument between 4 January 2023 and 1 March 2023. The consultation received 66,233 responses and the Government has read and taken into account each response. Many concerned national

identity cards, the establishment of which is not something proposed in, or enabled by, this legislation.

10.2 In taking account of the responses to the consultation on the draft instrument, more time will elapse between the instrument being made and coming into force than had previously been planned, and the wording of the new objective has been adjusted so as to additionally refer to "physical" and "social" "well-being", as is the case in the 'multiple disadvantages' specified objective.

10.3 Persons referred to in section 44(4) of the Act, in particular Commissioners for His Majesty's Revenue and Customs, the Information Commissioner and Ministers of the devolved administrations, were consulted. All were content with the instrument.

10.4 Further details on the views of respondents to the consultation, together with the Government's response to the consultation can be found at: https://www.gov.uk/government/consultations/draft-legislation-to-help-more-people-prove-their-identity-online/outcome/government-response-to-the-consultation-on-draft-legislation-to-support-identity-verification.

11. Guidance

11.1 Public bodies disclosing information under section 35(1) of the Act must have regard to the Code of Practice for public authorities disclosing information under Chapters 1, 3 and 4 (Public Service Delivery, Debt and Fraud) of Part 5 of the Digital Economy Act 2017, issued by the Minister for the Cabinet Office under section 43 of the Act. The Cabinet Office is not producing any specific guidance on the new objective provided for in this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation will be an expanded annual assessment of the effectiveness of Chapter 1 of Part 5 of the Act submitted to the relevant Minister. This annual assessment began following commencement of S.I. 2018/912 and will include this legislation following commencement of this instrument.

15. Contact

15.1 The Central Digital and Data Office at the Cabinet Office, email:dea-queries@digital.cabinet-office.gov.uk can be contacted with any queries regarding the instrument.

15.2 The Interim Chief Data Officer in the Central Digital and Data Office at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Alex Burghart MP, Parliamentary Secretary at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.