EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (BIOMETRIC REGISTRATION) (AMENDMENT No. 2) REGULATIONS 2009

2009 No. 3321

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations are made under the biometric registration provisions of the UK Borders Act 2007. They expand the incremental rollout of biometric immigration documents (also known as Identity Cards for Foreign Nationals) to include additional groups of foreign nationals, who are subject to immigration control and are settled or have limited leave to stay in the United Kingdom. The biometric immigration documents issued under the Regulations take the form of cards with a chip containing biometric data. The legislation stipulates the circumstances when such cards have to be produced by the holder.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 These Regulations are the fourth set of regulations to be made under the biometric registration provisions of the UK Borders Act 2007. They make further amendments to the Immigration (Biometric Registration) Regulations 2008.

4.2 These Regulations build upon the public commitments to expand the rollout of the biometric immigration documents to certain categories of foreign nationals. Individuals granted further leave to stay in the UK under Tier 2 of the Points Based System or as representatives of overseas businesses of the Immigration Rules will now have to apply for an Identity Card for Foreign Nationals.

4.3 The Regulations also include a number of further amendments that affect dependants of persons who are applying or have applied for a biometric immigration document.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Meg Hillier, Parliamentary Under-Secretary of State, Home Office, has made the following statement regarding Human Rights:

In my view the provisions of the Immigration (Biometric Registration)(Amendment No. 2) Regulations 2009 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 These Regulations will impose a requirement to apply for a biometric immigration document to the following categories of foreign nationals:

- Non-EEA nationals who are subject to immigration control and are applying for further leave to remain under Tier 2 of the Points Based System; or
- Non-EEA nationals who are subject to immigration control and are applying for further leave to remain as representatives of overseas businesses.
- Dependants of non-EEA nationals who are seeking leave in line with the main applicant who is applying, or has previously applied, to extend their permission to stay in the UK, and were required to apply for a biometric immigration document as part of that application.

7.2 These changes only apply to foreign nationals subject to immigration control and who are applying for further leave to remain in the UK in the categories described.

7.3 It is intended that these individuals will be required to apply for a biometric identity card if they apply for further leave to stay in the UK under Tier 2 of the Points Based System, which includes skilled employees, intra-company transfers and ministers of religion; and those individuals granted further leave as representatives of overseas businesses. It will also make it easier for these foreign nationals to demonstrate their entitlements to their sponsor and access other benefits. It will also make it easier for employers to confirm any entitlement to work as the card clearly sets out the holder's entitlements. Employers do not need to undertake any more checks than already required.

7.4 The amendment in respect of dependants is designed to ensure dependants applying for leave in line with the main applicant's leave are required to apply for a biometric immigration document when they submit their application separately to the main applicants. The regulations also clarify the definition of a dependant extending it to unmarried and same-sex partners.

- ***Consolidation***

7.5 These Regulations amend The Immigration (Biometric Registration) Regulations 2008, by adding additional categories required to apply for a biometric immigration document and making the other changes described above. These are the second set of minor amendments made to the Immigration (Biometric Registration) Regulations 2008, the larger part of the original Regulations remains unchanged. If further substantive amendments are necessary in the future, consolidation will be considered at that stage.

8. Consultation outcome

8.1 The UK Border Agency has not undertaken a formal consultation, however, the rollout strategy and policy have been discussed with internal and external stakeholders. The incremental rollout, including this phase, has also been highlighted in the March 2008 policy document; "Introducing Compulsory Identity Cards for Foreign Nationals", which can be downloaded from: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/compulsoryidcards/strategy.pdf?view=Binary.

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9. Guidance

9.1 We will continue to liaise with our stakeholder groups including the Business Advisory Panel, Joint Education Taskforce, Arts & Entertainment Taskforce, employers, sports representatives, religious organisations, overseas governments and their embassies and

organisations representing foreign nationals through stakeholder events and through publications on the UK Border Agency website.

10. Impact

10.1 The impact on business, charities or voluntary bodies is expected to be minimal as these regulations affect individuals.

10.2 The impact on the public sector is expected to be small as public sector organisations, such as the police, local authorities, NHS, DWP have become more familiar with the biometric immigration document since its rollout in November 2008. Any impact will largely fall to learning and awareness issues. However, we have mitigated against this by continuing to work with organisations providing additional guidance and through the stakeholder events.

10.3 An Impact Assessment and Equality Impact Assessment Report are attached to this memorandum

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 The UK Border Agency continues to monitor the rollout of the biometric immigration document for foreign nationals against its delivery targets and the impact of the policy. The rollout strategy, policy and delivery options will continue to be reviewed.

13. Contact

13.1 John Allen at the UK Border Agency Tel: 0208 760 3465 or e-mail: john.allen@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
Home Office / UK Borders Agency	**Impact Assessment of Identity Cards for Foreign Nationals - Tier 2 of Points Based System**	
Stage: Updated	**Version:** 3.8	**Date: 14 October 2009**
Related Publications: National Identity Service Delivery Update 2009. 09-04-29 Consolidated Impact Assessment v0.17		

Available to view or download at:

http://www.

Contact for enquiries: John Allen **Telephone:** 02087603465

What is the problem under consideration? Why is government intervention necessary?

Limited ability to precisely fix identity of some foreign nationals staying in the UK. Need to phase out less secure documents. The solution requires UK Border Agency (UKBA) to obtain legislation requiring foreign nationals staying in the UK and subject to control to register their biometrics. Need to roll-out identity cards to additional new categories of foreign nationals who have been granted further leave to stay in the UK. This will enable the UK to meet its legal obligations with the EU and commitment to rollout identity cards to all new applicants by 2011.

What are the policy objectives and the intended effects?

Introduce requirement to apply for an Identity Card for Foreign Nationals fixing a foreign national's identity at the earliest point and allowing them to demonstrate that they are legally here in the UK. It provides a document which is easily recognised by employers and others, which shows the holder's entitlements. It supports the Government's commitment to introduce a single comprehensive National Identity Service. UKBA has already issued over 90,000 cards to students, marriage, partnership and other smaller categories, and this rollout extends to those granted further leave to stay in the UK under Tier 2 of Points Based System which will increase the number of categories required to apply for a card, to include skilled workers, intra-company transfers, sports persons and ministers of religion.

What policy options have been considered? Please justify any preferred option.

Do nothing - Not recommended as we would only be able to issue identity cards to small groups of foreign nationals, which may mean the UK is unable to fully comply with EU regulations

Partially Implement EU Minimum - issue a card only where required by EU regulations.

Fully Implement - Continue to issue a high quality secure document to those legally here that is easily recognisable by employers and others on an incremental led rollout.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be continually reviewed for benefits realisation as part of the Office of Government Commerce Gateway Process. Costs are published regularly in the NIS Cost Report.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Meg Hillier

.....Date: 29th October 2009

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£ 2.6m

Average Annual Cost (excluding one-off)

£ 2.1m (ten years)

Description and scale of **key monetised costs** by 'main affected groups' The proportion of start up costs for Tier 2 are as follows. One off costs include setup IT, programme and property costs (all UKBA). Average annual costs include card costs and IT costs (UKBA) and social costs to migrants (cost of travel time).

Total Cost (PV) **£20.6 m**

Other **key non-monetised costs** by 'main affected groups' None

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

£ 0m

Average Annual Benefit (excluding one-off)

£2.0m (10 Years)

Description and scale of **key monetised benefits** by 'main affected groups' Ten year benefits - improvement in efficiency of enforcement operations (UKBA), reduction in benefits fraud (UK plc), fewer removals of illegal migrants (UKBA), reduction in crime by migrants (UK plc), reduction in foreign national migrant population in prison (UK plc), share of NIS benefits (UK plc).

Total Benefit (PV) **£ 16.4M**

Other **key non-monetised benefits** by 'main affected groups' Alignment with NIS (UK plc), Attract migrants by ensuring a secure identity (UK plc), Utility to card holder - easier to deal with government (card holder), easier to travel to the UK (card holder), easier employer or education sponsor checks (sponsors). Deter illegal entry to UK (UK plc). Align with EU (UK plc)

Key Assumptions/Sensitivities/Risks: Costs and benefits included are for those extending under Tier 2 skilled workers and both costs and benefits will vary with the number of Tier 2 workers applying for cards. These forecasts are regularly updated.

Price Base Year 0	Time Period Years 10	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£ - 4.2m**

What is the geographic coverage of the policy/option?			Nationwide	
On what date will the policy be implemented?			6 January 2010	
Which organisation(s) will enforce the policy?			UKBA	
What is the total annual cost of enforcement for these organisations?			£	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			Yes	
What is the value of the proposed offsetting measure per year?			£ Nil	
What is the value of changes in greenhouse gas emissions?			£ Nil	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 0 **Net Impact** **£** 0

Key:	**Annual costs and benefits: Constant Prices**	**(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

Foreign nationals come to the United Kingdom for a wide range of reasons such as to study or work. Using advances in biometric technology, we can reinforce our business processes and cut illegal working, protect legal migrants, and identify those trying to evade our rules and laws. This will help strengthen border security and lay the foundation for the wider National Identity Service. By recording a person's biometric features including fingerprints and facial image, we can now fix a person to a single identity making it simpler to check whether someone is who they say they are. The identity card for foreign nationals will provide reassurance and identity protection to the many here legally.

Under the UK Borders Act 2007, the Secretary of State was given powers to make regulations which require foreign nationals, subject to immigration control, to apply for an identity card incorporating important biometric data (known as a 'Biometric Immigration Document' (BID) in the Act). Registration of biometric identifiers (for example, facial image and fingerprint features) for verification purposes will be an important part of this process. This impact assessment supports regulations that widen the categories required to apply for identity cards, to enable UKBA to rollout identity cards to additional categories of foreign nationals, namely skill workers, ministers of religion, sports persons and intra-company transfers commencing at the start of 2010.

Since the start of the programme on 25 November 2008, the UK Border Agency (UKBA) has issued over 90,000 Identity Cards for Foreign Nationals to persons granted further leave to stay in the UK mainly under students and marriage and partnership types of categories. UKBA is committed to issuing identity cards to all applicants granted leave by end of 2011.

Rationale

The biometric registration requirements are part of the Government's commitment to strengthen immigration controls and reduce identity theft and abuse. By requiring foreign nationals subject to immigration control to apply for the identity card for foreign nationals, (referred in the UK Borders Act 2007 as a Biometric Immigration Document), and register their unique biometric identifiers and biographical information, the UKBA is able to fix a person to a single identity. UKBA will issue a secure biometric identity card for foreign nationals who are subject to immigration control. It will confirm their identity, immigration status and conditions of stay in the UK, thereby securely linking that person to a single identity.

Fixing a person to a single identity prevents fraudulent applications in multiple or different identities. UKBA is already operating this service and has identified several applicants who have made fraudulent applications using different identities

The rationale for issuing identity cards to those granted further leave to stay in the UK under Tier 2 of the Points Based System (PBS) is to enable UKBA to bring forward the rollout of identity cards to higher risk categories. It will also make it easier for foreign nationals granted further leave under Tier 2 to demonstrate their entitlements to their sponsor and access other benefits. It will also make it easier for employers to confirm any entitlement to work.

Objectives:

I) Aligning with the National Identity Service

The Government was elected on a manifesto commitment to introduce identity cards. The Identity and Passport Service has responsibility for delivering the Government's aim of introducing a National Identity Service, which will establish a National Identity Register. The Identity Cards Act 2006 received Royal Assent on 30th March 2006. The document 'National Identity Service Delivery Update 2009' explains how the scheme will be implemented. http://www.ips.gov.uk/cps/files/ips/live/assets/documents/Doc_D__IPS_delivery_report_8.pdf

The issuing of identity cards for foreign nationals from 2008 forms an integral part of the National Identity Service, ensuring that eventually all UK residents will have some form of recorded biometrics linked to their identity, providing significant benefits in terms of reduced identity fraud, immigration offences and abuse of public funds. Once the National Identity Register is fully operational it is the Government's intention that the identity card for foreign nationals will be designated as a document under section 4 of the Identity Cards Act 2006, as soon as it is practical.

II) Complying with EU Regulations

In June 2002, Council Regulation (EC) 1030/2002 laid down a uniform format for residence permits for third-country nationals. This set out the format and security features for residence permits, to be issued as a vignette sticker in a passport or as a card. These regulations were amended on 18 April 2008, by Council Regulation (EC) No 380/2008 and introduced a time-frame of 2 – 3 years from the agreement of technical standards to implement the regulation (phasing-out of residence permits in the form of vignette stickers), requiring that residence permits are only issued as cards containing certain biometric information. The EU Commission signed the technical specifications on 20 May 2009.

These amending biometric regulations are designed to ramp up the rollout of identity cards to foreign nationals in accordance with UKBA business plans, based on existing and new category types which match up to UKBA enrolment capability. This is to enable the Government to meet its obligations.

III) Expanding Coverage

The current Biometric Registration regulations enables UKBA to require those applying to extend their leave in certain student categories and through marriage or partnership applications apply for an identity card and enrol their biometric features, which includes a facial image and ten fingerprints.

The amending Biometric Registration regulations seeks to continue and expand the rollout by keeping the existing categories which include (and dependants where applicable):

- Tier 4 - as a General Student – (Replacing existing student categories);
- Tier 4 - as a student (Child);
- Spouses and Civil Partners;
- Unmarried and same-sex partners under the Immigration Rules;
- Transferring of Conditions;
- Academic visitors extending leave beyond 6 months;

• Visitor undergoing private medical treatment;

• Domestic worker in a private household;

• Person with United Kingdom ancestry;

• Retired persons of independent means; and

• Sole representatives.

The new regulation will introduce foreign nationals granted further leave under Tier 2 of the Points Based System, which will include skilled employees, ministers of religion, sports persons and intra-company transfers.

The wider UKBA business has agreed to the new categories in the regulations which largely reflect the rollout strategy published in "Introducing Identity Cards for Foreign Nationals" in March 2008. These changes will enable the rollout to expand in manageable means and continues to support the Government objective of ensuring that by 2011 all new applications for leave will include a requirement for the applicant and any dependant to register their biometrics and if their application is successful be issued with an identity card.

Appraisal

Options considered

Do nothing – This option is not possible, as the UK must comply with EU regulations on the format of residence permits. Failing to comply with the regulation may result in the EU Commission infracting the UK.

Partially Implement (EU Minimum) - This was also considered in the previous impact assessment and our opinion has not changed. The table on page 7 illustrates the costs and benefits of this option which are included for comparative purposes. This option assumes we issue a card where EU regulations require it, but do not issue it where not required by the EU regulations e.g. if the person already has leave to enter or remain and do not re-verify people's biometrics if already on database, or those transferring conditions or holding a no time limit stamp. Additionally under this EU option, UKBA would start with only facial biometrics (photo) and widen the scope to include fingerprints in line with the EU deadline (thus missing out on at 1-2 years worth of enrolling and checking fingerprints). This was discounted as all groups of foreign nationals subject to control in the UK are required to be included in the national identity scheme. Therefore, those transferring conditions or with a no time limit stamp need to be included. Without including these groups, and eventually the whole settled population, there would be gaps in the scheme, and potential abuse of the system. The option to enrol, check and re-check migrants' fingerprints even if they have already had their biometrics recorded, for example as part of a visa application, is also necessary to reduce abuse of the system. This adds significant additional non-monetised benefits in the area of reduction of fraud, crime and illegal working. Some of the additional non-monetised benefits would not be realised fully, with the delay of including fingerprint biometrics from day one. The costs and benefits table at the end of this section has been updated in line with new assumptions regarding costs and benefits and volumes.

Fully Implement - Issue a high quality secure document to those legally here, easily recognisable by employers and others. Delivery approach choices considered big bang or incremental rollout. Incremental led roll out selected on basis of derisking project. This approach has been adopted on a "secure and manageable" basis. This option represents the best balance of benefits, usage and costs and also delivers on Government commitments. It ensures we will be compliant with EU policy (as migrants extending under tier 2 and receiving a residence permit must be covered) but does not add unnecessary 'gold plating'. This option

reduces project implementation risks (and costs) by rolling out on a less steep curve and enables UKBA, the customer, employers and other government departments to utilise the enabling technology, biometric records being collected and cards being issued. This option also enables UKBA to enhance security through checks against criminal and counter terrorism records and dispatch of the cards through a secure delivery service. Without including all groups extending their stay we would be leaving a gap in the system that could be exploited by those seeking to avoid having their identities checked. Whilst the majority of migrants applying under Tier 2 (which previously partially comprised work permits applicants) there is intelligence and evidence that this category has been subject to abuse.

The preferred option is to fully implement the policy (option 3). In proceeding, UKBA has considered the impact of the policy and the costs and benefits of implementing the scheme.

Impact of policy

Employers

The increasing numbers of cards means that the document is becoming more easily recognisable as employers start to see them more frequently. This will mean that employers are more comfortable undertaking appropriate checks when they recruit people and are able to satisfy themselves that the document presented to them is valid and relates to the applicant. Rolling out cards to categories covered under Tier 2 of the Points Based System will further support this as employers will begin to see the cards more regularly and will be able to familiarise themselves with the cards.

Holders of an identity card for foreign nationals are required to produce the card to employers showing their entitlement to work and at other specified times, for example on the anniversary of their employment, to show that they remain entitled to work. This is to simplify the checks the employer needs to make to obtain a statutory excuse against a civil penalty notice issued by UKBA where the employer is found to be employing an illegal migrant.

Where employers are provided with an Identity Card for Foreign Nationals, providing they make the appropriate checks, e.g. checking the facial image against the bearer etc; they do not need to check any other document. The card is designed to ease the burden on the employer in that the card is a secure document and does not need to be produced in conjunction with other documents.

UKBA has published guidance on its website about checking the validity of the identity cards to ensure business and other key stakeholders are familiar with its design and recognise the card when it is presented to them. In addition, an Employers Verification Service phone line can be used by organisations if they have concerns over the validity of the card.

Over time, there will be a number of ways of authenticating and verifying identity, depending on the importance of the check ranging from visual check to a biometric check.

Properly checking the card and recording the information contained on the card will provide an employer with a statutory excuse against a civil penalty notice, if they are found to be employing someone not entitled to work in the UK.

Additional biometric enrolment capability is being rolled out through Home Office and through a pilot with the Post Office to provide flexibility and choice for migrants needing to enrol as quickly as possible, which includes the ability to enrol biometrics on a Saturday. It is assumed that employees will enrol their biometric features in their own time.

Applicants

Under the identity card for foreign national scheme, applicants are required to apply for the card and attend a biometric enrolment appointment as part of their application for further leave. Many already attend in person at a UKBA public enquiry office – for these people the biometric element will add less than half an hour to their visit. For those who normally apply by post a biometric enrolment appointment will need to be made and attended at a public caller facility before leave is granted. Appointments only last up to 30 minutes and the process is quick and easy. UKBA have already rolled out fingerprint visas at overseas posts so this process will be familiar to many. As UKBA rolls out more identity cards it intends to make more enrolment facilities available across the UK. In addition to the Home Office Biometric Enrolment facilities based at Belfast, Birmingham, Brighton, Cardiff, Croydon, Derby, Glasgow, Liverpool, London, Sheffield and Solihull, UKBA has commenced a pilot biometric enrolment process at a selected number of Post Offices, for those who wish to choose that option.

Applicants who previously applied for their immigration decision by post now have to travel to provide their biometrics but their application continues to be considered in line with existing processes. Although the requirement for a relevant person to apply for a card is mandatory, there is some flexibility around the timing and location of the appointment led by the applicant's preferences.

Family groups can be accommodated together. The enrolment process is quick and clean, there is no wet ink involved, and the enrolling officer does not need to touch the applicant to facilitate the enrolment. Photographs are taken which reveal the face but the process of taking the photograph will reflect cultural sensitivities. Special arrangements may be made for those who require them by virtue of disability or illness.

As more identity cards are rolled out, holders will start to find accessing employment and other entitlements will become more straightforward as employers and public bodies become more familiar with the identity card, particularly as checking the card will be come relatively straightforward.

Preventing abuse

Since rolling out identity cards for foreign nationals there have been eight convictions against people attempting to obtain leave by deception. Other cases are under investigation. In addition, by the end of September 2009, 76 people were match against police fingerprint records and are currently under further investigation by the police. These figures relate directly to the requirement for applicants to register their biometric features as part of their application for leave.

During the pilot where those affected were required to enrol their biometric features in Croydon, we observed a small amount of displacement to other centres for making applications for leave, which suggested that some people will attempt to exploit gaps. This regulation helps close down a further gap in the system.

The biometric checks will also dissuade applicants from attempting to make applications in false identities, when their biometrics have previously been enrolled.

Costs and Benefits

Overall approach to costs

In this impact assessment we have included the proportion of the costs and benefits that are relevant for the groups which are the subject of the regulations to be laid in Parliament. This approach has been used in the previous impact assessment and will be repeated when new groups are introduced into the scheme as further regulations are made and a new impact

assessment is published. These costs are part of the wider costs of introducing the initial phase of identity cards for foreign nationals which are shown in the table below (the costs have been scrutinised by Parliament's EU Scrutiny Committee as part of its review of the introduction of biometric residence permits which are a subset of identity cards for foreign nationals). The volumes assumed for the ten year period covered by this impact assessment for these regulations are a subset of the whole BRP project which covers several other categories in line with the harm based, phased roll out strategy and the total costs and benefits are proportionately reduced in line with the forecast volume of cards represented by Tier 2 applicants.

Full Costs

For clarity the full cost estimates of rolling out identity cards over 10 years to those foreign nationals extending their stay in the UK are as follows (this is for all the in country extension categories, not just Tier 2). As with any estimates these are likely to change over time as more information becomes available. Subsequent impact assessments will include any updates to costs as these become available. The total cost (PV) over 10 years includes the cost of setting up and running the business operations and the social of applicants travel and enrolment time.

	Full Implementation Option
Total one-off costs over 5 years (PV)	£23.3 m
Total running costs over 10 years (PV)	£ 172.6m
Average Annual cost (Excluding one-off) (PV)	£17.3m
Total Cost (PV) over 10 years	£196.0m
Average annual benefit	£15.6m
Total Benefit (PV) over 10 years	£156.3m
Net Cost (NPC) over 10 years	£39.8m (Net Present Cost)

Whilst we are not able to include a breakdown of full costs for commercial reasons, the total costs over a ten-year period (on a Present value basis) are £196 million and made up as follows:

- Set Up costs £23.3m
(to design, build and roll out the BRP system)

- Operational Costs £114.4 m
(costs of making appointments,
processing applications, enrolling applicants' biometrics,
validating identity, production and despatch of cards,
continuing IT and applicant support)

- Social costs
(cost of applicant travel and enrolment time) £58.2m

As UKBA receives more accurate cost information from suppliers and learns lessons from implementing the service we have been able to amend our estimates accordingly. Changes in assumptions regarding volumes of migrants who will need to undergo the process also change over time as migration patterns change. Work on additional benefits quantification is ongoing as the wider National Identity Service develops. We expect the NPV of this policy initiative to improve as more benefits are quantified (it has already increased since the last Impact Assessment).

Further Impact Assessments will be prepared when regulations are laid to include those groups in the scheme.

Benefits

Issuing the card to foreign nationals will have wider benefits, as set out in previous impact assessments for the identity card for foreign nationals. The benefits for identity cards for foreign nationals fall into those that are monetised (quantifiable) and those that are non monetised (not quantifiable). The benefits are as follows:

The monetised (quantified) benefits are described below. The methodologies used in quantifying these benefits have been developed based on existing research and statistics and, where appropriate, assumptions regarding future behaviours.

- **Improvement in efficiency of Enforcement Operations -** The number of illegal working operations that enforcement teams could mount would increase with the growing availability of the card and the use of card readers allowing officers to check the identity of foreign nationals, their entitlements to work and benefits and the authenticity of the card. The card will mean that officers can clear legitimate workers and identify illegal migrants faster.

- **Reduction in immigration related benefit fraud –** Publicity surrounding the introduction of identity cards for foreign nationals will make it clear that life in the UK for an illegal migrant will be increasingly difficult without a card. This deterrent effect will reduce the amount of benefit fraud. This will be a benefit to the wider UK economy and other government departments who are able to crack down on abuse as a result of checking more secure documents.

- **Identity cards for foreign nationals will deter some illegal immigrants from entering the UK and will therefore reduce crime** – The introduction of identity cards will make it clear that life in the UK for an illegal migrant will be increasingly difficult without a card. Some of those seeking to abuse the system will therefore decide not to come and this will reduce crime.

- **Reduction in foreign national prison population as a result of deterrence effect**. - Key stakeholders e.g. ACPO recognise that there will be a deterrent effect in the number of foreign national criminals attracted to the UK. A corollary of reducing crime is an impact on the level of the foreign national prison population. A small percentage deterrence in these numbers provides a significant reduction in direct costs of looking after prisoners.

- **Less removals due to deterrence of illegal migrants from coming to UK**- Publicity surrounding the introduction of identity cards will make it clear that life in the UK for an illegal migrant will be increasingly difficult without a card. As a result fewer illegal immigrants will come to the UK and therefore there will be a reduction in the costs as these people will not need to be detained and removed by UKBA.

- **Operational saving from not having to replace lost BRP cards** – a small proportion of identity documents sent out by Immigration Group are lost in the post. Without the introduction of more secure delivery processes a small proportion of BRP cards would get lost in the post. To avoid this cost and the security weakness their loss would produce, cards are being delivered by secure courier thereby avoiding the cost of replacing them and taking action to find missing cards.

- **Share of NIS benefits –** The National Identity Service also has quantified benefits associated with identity cards for the whole resident population of the UK. Since the BRP card provides an identity card for the foreign national population element of UK residents it has been agreed that a proportion of their benefits should be shared with the BRP card. We have agreed a method of sharing those benefits and they are included in the quantified benefits identified in this impact assessment.

- **Fee Income from overseas students –** An element of the immigration fees paid by foreign national students is attributable to the BRP card. Since most of the funding for their fees comes from overseas sources their fee is counted as a benefit to the UK economy.

There will be additional quantified benefits arising from the wider NIS which will accrue over time. These have not been included in this Impact Assessment but will continue to be explored with the relevant potential beneficiaries.

The total value of benefits (on a present value basis) is £156.3m.
Non-monetised benefits can be summarised as follows.

- **Align with EU partners** - Using a common standard for design of the card will allow the UK to introduce systems which are interoperable with those in place across the EU. The card will also be interoperable with other international standards and systems. There is benefit to UK plc and the EU by using standards aligned with the EU whereby all citizens can establish their identity through the use of secure biometric ID cards. The NIS provides UK citizens with an ID card, the BRP card provides the same for non EEA foreign nationals and the EU card provides EEA citizens with an ID card. Aligned standards enable all cards to be checked for authenticity with the same card readers loaded with the appropriate certificates.

- **Alignment with National Identity Service** - In order to achieve the full benefit of the wider National Identity Service, it is necessary to implement biometrics across the whole spectrum of people living in the UK. This will be a benefit to the wider UK economy. The BRP card has already gone through the design and implementation of ID cards and using a similar technology to NIS. The BRP card can therefore provide lessons learned that will reduce the risks of the wider NIS.

- **Increased volume of biometric records** - It is intended that the additional information that will be provided by recording of biometric data for foreign nationals could be made available to other bodies, such as the police within the limits of legislation. The information will contribute to the strengthening of border controls and help reduce crime.

- **Increase confidence in immigration system** - The UK's immigration system has been the focus of much media scrutiny in recent years. The introduction of identity cards for foreign nationals is a key part of this and will build public confidence as the cards reducing the harm that accrues from illegal migration. Checking against police fingerprint records plays an important part in increasing confidence.

- **Attract migrants by ensuring a secure identity** – research evidence suggests that those living here legally and playing by the rules can sometimes have concerns regarding the security of their identity and their ability to prove their identity and entitlements. The identity card will provide this security and an easier way to prove who you are and what you are entitled to. The new cards will be made of a polycarbonate which contains a highly secure embedded chip and incorporates sophisticated security safeguards to combat tampering. This means that the identity cards for foreign nationals will be more resistant to attack than the existing residence permits and other UK immigration status documents. As the identity cards for foreign nationals will confirm both a person's immigration status and entitlement to work and/or public funds in the UK, we will, for the first time, be able to securely link a person to a single identity. This measure should provide reassurance and protection for legal migrants and benefit both migrants and the wider UK economy.

- **Identify multiple identity applications** - Biometric data is tied to one unique identity so checks undertaken when a person applies for a residence permit will automatically identify individuals who have previously had their biometrics recorded (either in-country or out-of-

country) and who are now claiming to be someone else. This will benefit the wider UK economy.

- **Detect other immigration offences** – If a cardholder who has overstayed their leave presents a card at the border, it will trigger an enforcement action. Several cases have already been successfully prosecuted. This will be a benefit to the wider UK economy.

- **Make life easier for the card holder** – migrants here legally who are issued with a card will, over time, find it easier to deal with government and to travel as they have a secure document showing their entitlements - by phasing out the wide range of old style documents it makes it easier for those checking the card to deal with migrants quickly and confidently, thereby benefiting to migrants.

- **Easier employer or education sponsor checks.** The phasing out the whole range of old style insecure documents will make it easier for employers and educational establishments to check entitlements and so reduce the administrative burden of these checks. This will be a benefit to the wider UK economy. Employers already have an obligation to check right to work documents, the introduction of identity cards will standardise the documentation and as verification services develop it will become quicker and easier. In time, we would expect to be able to quantify this benefit.

- **Secure documents** – The card is designed in such a way that it is inherently more secure than the old style paper based immigration documents. The secure card design is supported by more secure issuing processes and the verification of biometric data, as well as the ability to 'lock' a person's identity to that biometric data. This will be a benefit to the wider UK economy.

- **Identity cards for foreign nationals will deter illegal immigrants from entering the UK and will reduce illegal working and increase tax revenues.** As a result, businesses will be more likely to use legal workers and this could lead to increased tax revenue. Where it is not replaced there will still be benefits from reducing illegal working in the UK. This will be a benefit to the wider UK economy.

- **Additional criminal and counter terrorism record checks –** The additional steps introduced to enable all applicants' biometrics to be checked against criminal and counter terrorism records. In addition, the biometrics registered from foreign nationals can be checked against scene of crime fingerprint records.

Summary: Analysis & Evidence

Policy Option: Partial implementation (EU MINIMUM)	Description: Issue a card in line with EU regulations but with no additional identity verification THIS OPTION HAS NOT BEEN TAKEN FORWARD.

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ 2.5m	5
Average Annual Cost (excluding one-off)	
£ 1.4m	10

Description and scale of **key monetised costs** by 'main affected groups' The proportion of start up costs for Tier 2 are as follows.One off costs include setup IT, programme and property costs (all UKBA). Average annual costs include card costs and IT costs (UKBA) and social costs to migrants (cost of travel time)

Total Cost (PV) **£ 14.0m**

Other **key non-monetised costs** by 'main affected groups'
None

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£ 0	
Average Annual Benefit (excluding one-off)	
£ 1.8m	

Description and scale of **key monetised benefits** by 'main affected groups'
Ten year benefits – some improvement in efficiency of enforcement operations, reduction in benefits fraud, fewer removals of illegal migrants, reduction in crime by migrants, reduction in foreign national migrant population in prison, share of NIS benefits

Total Benefit (PV) **£ 14.6m**

Other **key non-monetised benefits** (although to a lesser extent than the preferred option) by 'main affected groups' Alignment with National Identity Service, Attract migrants by ensuring a secure identity, Utility to card holder - easier to deal with government, easier to travel to the UK, easier employer or education sponsor checks. Deter illegal entry to UK. Align with EU

Key Assumptions/Sensitivities/Risks Costs and benefits included are for those extending under Tier 2 skilled workers and both costs and benefits will vary with the number of Tier 2 workers applying for cards. These forecasts are regularly updated.

Price Base Year 0	Time Period Years 10	**Net Benefit Range** (NPV) £	**NET BENEFIT** (NPV Best estimate) £ **0.6m**

What is the geographic coverage of the policy/option?			National	
On what date will the policy be implemented?			n/a	
Which organisation(s) will enforce the policy?			UKBA	
What is the total annual cost of enforcement for these organisations?			£	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ nil	
What is the value of changes in greenhouse gas emissions?			£ nil	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **0**	Small **0**	Medium **0**	Large **0**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 0 **Net Impact** **£** 0

Key:	**Annual costs and benefits: Constant Prices**	**(Net) Present Value**

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Annexes

Annex A – Summary table and comparison of Non Monetised

Benefit description	Partial Implementation – EU Minimum	Full implementation	Rationale
	Assessment of ability of option to deliver benefit		
Align with National Identity Scheme	mid	Full	Coverage is fuller with preferred option (as more groups of migrant are included) resulting in better alignment with NIS
Increase confidence in immigration system	low	high	The preferred option includes face to face verification and ongoing fingerprint checks if the migrant makes a subsequent application therefore building confidence in UKBA decision making.
De-risk National Identity Scheme	low	Full	The preferred option allows increased opportunity to test technologies in required timescales (eg fingerprint enrolment sooner) and learn lessons in time to influence wider roll out.
Attract migrants by ensuring a secure identity	low	high	Because the biometric element is delivered sooner by the preferred option and that applicants are verified face to face even if they have been seen before, migrants will feel more secure that cards will only be issued to legitimate migrants who have been fully verified.
Identify multiple identity applications	low	Full	The additional verification checks under the preferred option reduce the opportunity for multiple identity application.
Detect other immigration offences	low	Full	The additional coverage of the preferred option and earlier inclusion of fingerprint enrolment will increase detection of other immigration offences.
Align with EU partners	full	Full	Both options align with the EU legislation.
Easier employer checks	high	Full	The preferred option generates higher volumes of migrants with cards for employers to easily check.
Secure documents	high	Full	The preferred option introduces fingerprint technology sooner, thus making the cards more secure.
Reduce illegal working and increase tax revenues	high	Full	The greater deterrent effect associated with the preferred option will result in a greater reduction in illegal working.
Additional criminal and counter	none	Full	These checks are only included in

Benefit description	Partial Implementation – EU Minimum	Full implementation	Rationale
terrorism record checks			the full implementation option and are for all applicants.
Secure delivery	None	Full	Secure delivery is only included in the full implementation option is for all applicants
Provides support to disabled applicants unable to attend an enrolment facility	None	Full	This benefit is only available for the full option.
Improve detection of Crimes committed by non EEA foreign nationals	None	Full	This benefit is only available for the full option which includes IDENT checks

COUNT OF CONTRIBUTIONS TO QUALITATIVE BENEFITS			
full	1	12	
high	3	2	
mid	1	0	
low	5	0	
none	4	0	
SUMMARY ASSESSMENT	**LOW**	**HIGH**	

THE EQUALITY IMPACT ASSESSMENT REPORT

Background:

This Equality Impact Assessment (EIA) builds on the previous EIAs produced for the previous Immigration (Biometric Registration) Regulations 2008 which came into force on 25 November 2008 and Immigration (Biometric Registration) (Amendment) Regulations 2009 which came into effect on 31 March 2009. The EIA for the first regulations focused on the initial rollout of identity cards to foreign nationals to "student" and "marriage/partnership" categories. The second one built on the first. This EIA takes forward that work and expands the rollout categories to include those applying for further leave to stay in the UK under Tier 2 of the Points Based System, which includes skilled employees, intra-company transfers and ministers of religion. This EIA focuses on the potential positive and negative impacts this may cause for individuals within this category from an equality perspective.

None of these phases of the rollout is immediately linked with Earned Citizenship. We are working with the policy leads in this area of work to ascertain how best we could use the card to encourage foreign nationals to engage with the Earned Citizenship programme and further develop the use of the card as part of the Government strategy of inclusion into the wider community.

Methodology:

The EIA was undertaken through the use of questionnaires, discussions and meetings with internal and external stakeholders to assess the impact that this policy is likely to have upon those applying for further leave to stay in the UK under Tier 2 of the Points Based System, which includes skilled employees, intra-company transfers and ministers of religion.

Consultation & Involvement:

In order to do this the UK Border Agency utilised contacts with various groups representing employers and religious groups, (e.g. Employers Taskforce, Joint Education Taskforce;) which were provided with background information about our rollout plans. In addition to this, the UK Border Agency continued to meet and correspond with A:Gender. Many other groups were contacted but only the above-mentioned has continued to engage with the UK Border Agency on a regular basis.

Assessment & analysis

Liberty

The table below lists the concerns raised by Liberty in its response to the previous EIA Questionnaire and UK Border Agency's updated responses:-

Liberty's Concern	UKBA's Response
That the police will target certain nationalities once identity cards are introduced.	The UK Borders Act does not introduce any new powers for the police to stop and search individuals; the use of stop and search powers solely based on nationality would be a breach of the statutory powers available to the police and the officer may be subject to disciplinary proceedings. The UK Border Agency has worked with ACPO to produce guidance for Police Officers in England, Wales and Northern Ireland about how the police should treat the identity card and to remind them that they cannot stop someone to see the person's identity card. Arrangements are being made to provide similar guidance for police in Scotland.
That in applying for an identity card other private information would be disclosed.	The UK Border Agency will only ask for information relevant to the application and is subject to data protection legislation in respect of this data.
That the elderly may feel uncomfortable having to carry an identity card.	The UK Border Agency notes this concern although Liberty was unable to substantiate this with empirical evidence or research data.
That people would feel compelled to carry identity cards.	This concern can be addressed through the provision of information to ensure identity card holders are aware that it is not a requirement to carry the card at all times but that it will be necessary to produce it at certain specified times, such as when taking up employment in the UK. UKBA has reiterated at internal and external stakeholder events that there is no requirement for holders of identity cards for foreign nationals to carry the card at all times.
That identity cards would make people feel like they do not belong.	Identity cards for foreign nationals will confirm a person's immigration status, entitlement to work in the UK and access to public funds; the UK Border Agency considers that the identity card should strengthen an individual's sense of belonging and at the same time afford greater reassurance and protection to them. To date, UKBA has not received any complaints of this nature. Anecdotal evidence indicates that foreign nationals are content to have identity cards, as many of them are used to having them from their home country.
That identity cards would make people feel like the State is monitoring them.	Since the identity card will not be required to be carried at all times and will be required only for certain events (such as taking up study or employment) the UK Border Agency does not consider this to be a significant negative impact. The UK Border Agency will not be monitoring beyond its statutory obligations to know who is in the UK legally and that they are legally engaged in economic activity.
That a person's gender on the identity card would be 'fixed', which would then potentially	The UK Border Agency is conducting further investigations into this concern in conjunction with the Identity and Passport Service (IPS).

cause problems for those who subsequently changed gender	The UK Border Agency has regular contact with interested organisations to develop the policy for those who are planning, undergoing or have completed a change to their gender.
That identity cards would make people feel like they are being victimised	The UK Border Agency notes this concern although Liberty was unable to substantiate this with empirical evidence or research data

Wright Hassall LLP

The table below lists the concerns raised by Wright Hassall LLP from the most recent questionnaire issued to stakeholders for Tier 2 of the Points Based System.

Wright Hassall LLP	**UKBA's Response**
Organisation-specific concerns. Impact on corporate clients who are unable to take time off work to attend a biometric enrolment facility.	UKBA has increased its rollout capabilities to ensure greater coverage across the UK. In addition, it has introduced a Post Office enrolment pilot to increase capacity and flexibility and intends to rollout a mobile service for those willing to pay for an exclusive service.
General Business executives will not wish to spend a whole day attending a PEO in order to give their biometric data and await the outcome of their leave to remain application or be without their passport for overseas travel for several weeks while a postal application is under consideration.	Appointments at enrolment centres are quite flexible and offer a range of times. Applicants are able to attend any one of the eleven centres. In addition, the service provided by Post Offices will enable lunchtime and weekend enrolments. A mobile solution can be tailored to meet specific needs. For those wishing to use the premium service already choose to take time out to attend a public enquiry office, biometric enrolment will now be part of the same appointment.
Age The process will inevitably cause children to miss school time.	Again, the biometric enrolment capability is designed to be flexible, and the Post Office enrolment pilot will mean children not having to avoid school.

The Home Office Disability Service

The table below lists the concerns raised by The Home Office Disability Service from the previous EIA and the UK Border Agency's responses:-

Home Office Disability Service's Concern	**The UK Border Agency 's Response**
Several concerns were raised with respect to the potential negative impact on disabled people	The UK Border Agency considers that the 'Exemptions and Exceptions' policy & processes will address these concerns, as will the increased enrolment capacity provided through Post Office Limited and the provision of mobile biometric enrolment.

	We have worked with HODS to check the suitability of new biometric enrolment centres.

A:Gender

The table below lists the concerns raised by A:Gender and the UK Border Agency's updated responses:-

A:Gender's Concern	The UK Border Agency **'s Response**
A:Gender were concerned that a person's gender would be 'fixed' on the identity card	The UK Border Agency is conducting further investigations into this concern in conjunction with the Identity and Passport Service. The UK Border Agency continues to work with A:Gender to develop the policy on this matter.

Home Office Child Trafficking Unit

This unit expressed concerns that child friendly facilities and child protection workers be made available, and that the whole process was carried out in a sensitive manner. The UK Border Agency will ensure that all these things are done and is in the process of training staff on children's issues.

The table below lists the concerns raised by Home Office Child Trafficking Unit and the UK Border Agency's updated responses:-

Home Office Child Trafficking Unit's Concern	The UK Border Agency **'s Response**
That child friendly facilities and child protection workers be made available, and that the whole process was carried out in a sensitive manner	The UK Border Agency concurs with the suggestions and is in the process of training staff on children's issues. All staff involved with working with children are required to undertake appropriate training. Guidance sets out the requirements for enrolling the fingerprints of children aged under 16.

Recommendations

The EIA has provided valuable input to the UK Border Agency's work on implementing identity cards for foreign nationals. Following the EIA and analysis of the concerns raised by the stakeholders the following recommendations are made:

- The UK Border Agency should continue with its work to introduce the identity card for foreign nationals, which will provide reassurance and identity protection to the many here legally who contribute to the prosperity of the UK.

- The UK Border Agency will continue its involvement with A:Gender, in liaison with the Identity and Passport Service, to address concerns raised by them and Liberty about fixing identity, where gender is a concern, and to remove the potential for having adverse affects on the transgender community, but will continue to maintain its wider objectives.

- The UK Border Agency should ensure continued public access to information about the introduction of the identity card for foreign nationals, and should continue to monitor and review arrangements. Guidance and information about the identity card should be updated on a regular basis.

- The UK Border Agency should ensure that foreign nationals issued with the identity card are fully aware of the rights and obligations it carries. Sources of information, such as internet pages, should be kept updated.

- The UK Border Agency should continue to actively engage with the various stakeholder groups and identify additional groups where appropriate.

- Greater use will be made of the UKBA stakeholder management (SMART) database to identify and manage appropriate stakeholders.

- Work with Earned Citizenship programme to develop the use of the identity card for foreign nationals.

- To contact research groups and establish empirical evidence around the impact of identity cards for foreign nationals on applications and outcomes and identify any trends, which suggest negative or positive impacts on both the immigrant and wider community.

Date of EIA Report

16 December 2009

Date of Publication of Results

November 2009