EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (COLLECTION, USE AND RETENTION OF BIOMETRIC INFORMATION AND RELATED AMENDMENTS) (AMENDMENT) REGULATIONS 2026

2026 No. 990

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Jo White, Minister for Migration and Citizenship, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Charlotte Breen, Deputy Director for Passport, Identity and Nationality Policy Unit, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Celina Khalid at the Home Office, telephone: 03000727331 or email: identitysecurityteam@homeoffice.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will allow persons employed by contractors in Short-Term Holding Facilities to be authorised to take photographs of migrants who do not have the required immigration permissions and/or are subject to immigration enforcement. It will align the power to take photographs with existing fingerprinting powers, allowing both checks to be conducted in one interaction.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Biometrics support identity assurance and suitability checks on foreign nationals who are subject to immigration control. These checks are made against immigration and criminality records to identify those who pose a threat to national security, public safety, or immigration controls.

5.2 Fingerprints and photographs are typically captured together to establish and confirm a person's identity, such as when an individual first arrives in the UK, is encountered by Immigration Officers, or is being processed for return to another country.

5.3 Short-Term Holding Facilities are secure sites used to temporarily hold individuals, including those refused entry at the border or awaiting removal from the UK. These facilities are staffed by both Immigration Officers, who are Home Office officials, and staff employed by contractors to operate the facilities on behalf of the Home Office (who are often the first officials to interact with an individual).

5.4 This instrument adds persons employed by contractors to the categories of authorised persons permitted to take photographs of individuals held at Short-Term Holding Facilities for the purposes of establishing their identity for immigration purposes.

5.5 Section 47 of the Border Security, Asylum and Immigration Act 2025 ("2025 Act") authorises persons employed by contractors working in Short-Term Holding Facilities to take fingerprints. The legal power to capture photographs in Short-Term Holding Facilities is set out in separate secondary legislation.

5.6 Persons employed by contractors at Short-Term Holding Facilities are therefore authorised to take fingerprints, but not currently to take photographs in the same circumstances. As a result, biometric capture cannot always be completed in a single step and may require a second authorised individual (such as an Immigration Officer) to complete the process, which can delay confirming identity and slow case progression.

5.7 This instrument will update photograph-taking powers to align them with fingerprinting powers, thus allowing full biometrics to be taken in one interaction by a single authorised person.

What was the previous policy, how is this different?

5.8 Currently, the powers to take photographs in Short-Term Holding Facilities are limited to authorised Immigration Officers. As a result, where biometric information is required, a person employed by a contractor in a Short-Term Holding Facility cannot complete the full biometric process, and therefore an authorised Immigration Officer is required. The need for referral to a second member of staff can create inefficiency and delays.

5.9 This instrument updates the powers to take photographs to align them with the existing fingerprinting powers for persons employed by contractors in Short-Term Holding Facilities. This will enable persons employed by contractors in Short-Term Holding Facilities to take fingerprints and photographs in the same circumstances, allowing biometric capture to be completed more quickly, and by a single authorised individual.

5.10 This change will not alter the circumstances in which biometric information may be collected or the categories of individuals who are subject to biometric collection.

6. Legislative and Legal Context

How has the law changed?

6.1 The powers to take photographs for immigration purposes are set out in Regulation 2 of the Immigration (Collection, Use and Retention of Biometric Information and Related Amendments) Regulations 2021 ("the 2021 Regulations"). Regulation 2

specifies the categories of authorised persons who may take photographs for immigration purposes.

6.2 Persons employed by contractors working in Short-Term Holding Facilities are not included among the categories of authorised persons specified in Regulation 2 of the 2021 Regulations.

6.3 This instrument amends Regulation 2 of the 2021 Regulations to include persons employed by contractors in Short-Term Holding Facilities among the categories of authorised persons who may take photographs.

6.4 Section 47 of the 2025 Act authorised persons employed by contractors in Short-Term Holding Facilities to take fingerprints. Section 62 of the same Act allows consequential amendments to be made where other legislation needs updating as a result. This instrument uses that power to amend the 2021 Regulations so that the powers to take photographs align with the powers to take fingerprints.

Why was this approach taken to change the law?

6.5 This approach has been taken because the definition of an Authorised Person for the purposes of taking photographs in this context is set out in Regulation 2 of the 2021 Regulations, and therefore cannot be changed by operational guidance. Amending the existing Regulations is therefore the simplest legislative route. Changes to primary legislation are not required to make this change.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal public consultation has been undertaken as the changes being made are technical and consequential in nature. It does not introduce new policy, expand existing biometric powers, or alter the circumstances in which biometric information may be collected. Instead, it aligns existing legislative provisions to ensure that powers exercised in practice can be carried out consistently by the same categories of authorised staff. Relevant internal stakeholders, including operational teams and legal advisers, have been engaged in developing the changes.

7.2 The underlying policy framework governing biometric collection, including the expansion of fingerprinting powers, was subject to parliamentary scrutiny through the passage of the 2025 Act. This instrument does not revisit that policy but ensures that existing secondary legislation operates consistently with those changes.

8. Applicable Guidance

8.1 No new standalone guidance is required for this instrument.

8.2 Existing Home Office operational guidance governing the collection of biometric information, including fingerprints and photographs, will continue to apply. No new guidance is required, although relevant Immigration Enforcement and Border Force Identity Management guides for operational staff will be updated prior to these changes being implemented, to reflect the revised categories of authorised persons. Staff authorised under the amended provisions must be appropriately trained before being allowed to take biometrics and will continue to follow the same procedures and standards as those already in place.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it is a technical and consequential change which does not introduce new policy, expand existing powers, or impose new regulatory burdens.

9.2 The impact of the instrument is limited to internal operational improvements within immigration functions.

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument does not introduce new requirements or obligations on external stakeholders.

9.4 The instrument does not change the categories of individuals subject to biometric collection, the circumstances in which biometric information is obtained, or the way in which that information is used or verified. As such, it does not affect any processes relied upon by external organisations when carrying out checks or complying with existing legal duties.

9.5 The legislation does not impact small or micro businesses, as it does not introduce new regulatory requirements or change existing obligations placed on businesses of any size.

9.6 There is no, or no significant, impact on the public sector because the instrument does not introduce new functions, duties or requirements for public authorities.

9.7 The impact is limited to operational improvements within existing Home Office functions. Any such impacts are absorbed within existing resources and do not result in additional costs or changes to public sector service delivery. It will mean that the Home Office does not need to obtain a trained Immigration Officer to enrol biometrics freeing them up to focus on other activities.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through existing operational and performance management processes within the Home Office. This includes oversight of biometric capture activity across operational settings and ongoing engagement with frontline teams to ensure that the alignment of fingerprint and photograph taking powers is functioning as intended in practice. Any issues identified through operational feedback will be addressed as part of routine policy and operational review.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").