STATUTORY INSTRUMENTS

# 2004 No. 474

# IMMIGRATION

## The Immigration (Provision of Physical Data) (Amendment) Regulations 2004

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| *Made - - - - -* | *25th February 2004* |
| *Coming into force - -* | *27th February 2004* |

Whereas a draft of these Regulations has been laid before and approved by resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred on him by section 126(1) of the Nationality, Immigration and Asylum Act 2002(**a**), the Secretary of State hereby makes the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Immigration (Provision of Physical Data) (Amendment) Regulations 2004 and shall come into force on 27th February 2004.

**Amendment of the Immigration (Provision of Physical Data) Regulations 2003**

**2.** The Immigration (Provision of Physical Data) Regulations 2003(**b**) shall be amended as follows.

**3.** In regulation 2:

(a) for the definition of "application", there shall be substituted:

""application" means:

(a) an application for entry clearance made at a British Diplomatic mission or a British Consular post listed in the Schedule to these Regulations; or

(b) an application for leave to enter the United Kingdom where the person seeking leave to enter presents a convention travel document endorsed with an entry clearance;"; and

(b) after the definition of "applicant", there shall be inserted:

""convention travel document" means a travel document issued pursuant to Article 28 of the Refugee Convention, except where that travel document was issued by the United Kingdom Government; and

"Refugee Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol(**c**)".

**4.** For regulation 5, there shall be substituted:

"**5.**—(1) Subject to paragraphs (2) and (3), where an application is not accompanied by a record of the applicant's fingerprints it may be treated as invalid.

(**a**) 2002 c. 41.
(**b**) S.I. 2003/1875.
(**c**) 189 U.N.T.S. 2545.

(2) An application shall not be treated as invalid under paragraph (1) if it is for leave to enter the United Kingdom where the person seeking leave to enter presents a convention travel document endorsed with an entry clearance.

(3) Where an application is of a type described in paragraph (2) and is not accompanied by a record of the applicant's fingerprints it may be refused.".

**5.** In the Schedule to the Regulations:

(a) before "Sri Lanka", there shall be inserted "Djibouti", "Eritrea" and "Ethiopia"; and

(b) after "Sri Lanka", there shall be inserted "Tanzania" and "Uganda".

*Beverley Hughes*
Minister of State

Home Office
25th February 2004

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Immigration (Provision of Physical Data) Regulations 2003 ("the 2003 Regulations") in two principal ways.

Firstly, these Regulations expands the definition of "application" so as to apply the requirement in regulation 3 of the 2003 Regulations that a record of fingerprints should accompany certain immigration applications to a new category of application (regulation 3(a)). This new category is an application for leave to enter the United Kingdom, where, in the course of that application being made, the person making it presents a travel document issued pursuant to Article 28 of the means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol (except where that document was issued by the United Kingdom Government) and which is endorsed with an entry clearance (regulation 3(a) and (b)). Including this category in the definition of "application" means that the safeguards relating to provision of a record of fingerprints by an applicant aged under 16 and destruction of information contained in regulation 4 and regulations 7 to 11, respectively, of the 2003 Regulations will apply. Similarly, the provision as to the use of fingerprints in regulation 6 of the 2003 Regulations also applies. Regulation 4 of these Regulations also amends regulation 5 of the 2003 Regulations so as to provide that the new category of application shall not be treated as invalid where such an application is not accompanied by a record of the fingerprints of the person making it. Instead, such an application may be refused if a record of fingerprints is not provided.

The second principal amendment to the 2003 Regulations adds Djibouti, Eritrea, Ethiopia, Tanzania and Uganda to the countries listed in the Schedule to the 2003 Regulations in which an application for entry clearance shall be accompanied by a record of the applicant's fingerprints.

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