

Subsidiary Legislation made under s.25.

Electronic Identity Card Regulations 2015

LN.2015/100

Commencement **29.6.2015**

Amending enactments	Relevant current provisions	Commencement date
LN. 2017/130	rr. 3, 8(5), 9, (3), (a), (4)-(5)	29.6.2017
2021/152	rr. 3, 4(6), 5(2), (4)(b)-(d), (5), 17-18, Sch.	25.2.2021

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SCHEDULE

Cardbody Format

In exercise of the powers conferred on the Minister by section 25 of the Electronic Commerce Act 2001 and on the Government by section 7 of the Civilians Registration Act, and of all other enabling powers, the Minister and the Government have made the following Regulations—

Title.

1. These Regulations may be cited as the Electronic Identity Card Regulations 2015.

Commencement.

2. These Regulations come into operation on the day of publication.

Interpretation.

3. In these Regulations—

“Act” means the Civilians Registration Act;

“advanced electronic signature” has the meaning given in the eIDAS Regulation;

“card” means an identity card, civilian registration card, or both, depending on the context;

“cardholder” means a person who has been issued a card under these Regulations;

“civilian” has the same meaning as that provided in the Act;

“civilian registration card” means a card that is issued in accordance with paragraph 3 of Schedule 1 to the Act, and which—

- (a) is a qualified electronic signature creation device;
- (b) may be used as proof of identity; and
- (c) entitles the cardholder to such services as are provided for under these Regulations.

“EEA EFTA separation agreement” means (as modified from time to time in accordance with any provision of it) the Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable

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between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom's membership of the European Union;

“eIDAS Regulation” means Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, as amended from time to time;

“ICAO” means the International Civil Aviation Organization;

“identity card” means a card that is issued in accordance with paragraph 2 of Schedule 1 to the Act, and which-

- (a) is a qualified electronic signature creation device;
- (b) may be used as proof of identity;
- (c) entitles the cardholder to such services as are provided for under these Regulations; and
- (d) may be used as a valid travel document to or from Gibraltar to any country or territory that accepts such an identity card as a valid travel document.

“Minister” means the minister with responsibility for personal status;

“non-commercial communication” has the same meaning as that provided in the Electronic Commerce Act 2001;

“PIN” means a personal identification number for a cardholder, consisting of a 6 digit secret number and used to approve a transmission of data from that person's card for the purpose of electronic identification;

“qualified certificate for electronic signature” has the meaning given in the eIDAS Regulation;

“qualified electronic signature creation device” has the meaning given in the eIDAS Regulation;

“qualified trust service provider” has the meaning given in the eIDAS Regulation;

“Register” has the same meaning as that provided in the Act;

“Registered person” has the same meaning as that provided in the Act;

“Registration Officer” has the same meaning as that provided in the Act;

“Swiss citizens’ rights agreement” means (as modified from time to time in accordance with any provision of it) the Agreement signed at Bern on 25 February 2019 between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens’ rights following the withdrawal of the United Kingdom from-

- (a) the European Union; and
- (b) the free movement of persons agreement;

“time stamp” means a data unit which is created using a system of technical and organisational means which certifies the existence of a document at a given time;

“Withdrawal Agreement” means the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom’s withdrawal from the EU (as that agreement is modified from time to time in accordance with any provision of it).

Registration.

4.(1) A person, other than a registered person, to whom these Regulations apply, must within 3 days of entry into Gibraltar, make an application to the Registration Officer for registration in the appropriate form set out in Schedule 2 to the Act.

(2) Pursuant to subregulation (1) a civilian under the age of 15 years to whom paragraph 2 of Schedule 1 to the Act applies, will not be required to be registered separately from the civilian’s parent or legal guardian but must comply with subregulation (3).

(3) Application for registration must be made by a person to whom the Act becomes applicable within 3 days of the Act so becoming applicable to that person.

(4) A person making an application for registration must be photographed at such time and place as the Registration Officer may require.

(5) A person’s entry in the Register must be given a unique serial number, consisting of a 6 digit authority number and a 3 digit randomly assigned number, and must contain all the particulars set out in Schedule 2 to the Act.

(6) An entry referred to in subregulation (5) may include letters as part of or complementary to the unique serial number.

Issuing of cards.

5.(1) Subject to regulation 16(4), the Registration Officer on receiving a completed application for registration in respect of a person, must upon receipt of the prescribed fee and having verified that the applicant is entitled to be issued with a card, as soon as reasonably practicable, issue a card to that person.

(2) *Omitted.*

(3) If the cardholder is under the age of 15 years at the date of issue of a card, there is no need to provide a signature on the cardbody.

(4) Pursuant to subregulation (1) issued cards must consist of the following colour codes—

- (a) red for identity cards;
- (b) blue for civilian registration cards for—
 - (i) EU, EEA and Swiss nationals who are exercising the right to reside in Gibraltar under Part II of the Withdrawal Agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement, as the case may be; and
 - (ii) persons who are not EU, EEA or Swiss nationals but who, by virtue of a connection with such a national are within the scope of either Part II of the Withdrawal Agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement;
- (c) green for civilian registration cards for nationals who do not fall under paragraph (a), (b) or (d) or subregulation (5);
- (d) magenta for civilian registration cards for British citizens who are not eligible for a red identity card and who do not fall under subregulation (5).

(5) A British citizen who prior to 1 January 2021 was eligible for a blue civilian registration card by virtue of being treated as an EU national continues to be eligible to such a card.

Card details and possession of a card.

6.(1) Every card issued must contain the unique serial number issued pursuant to regulation 4(5).

(2) A card issued to an individual must–

- (a) record at least the information set out in the Schedule;
- (b) record parts of it in an encrypted form;
- (c) be valid for the period of time provided in regulation 10; and
- (d) remain the property of the Civil Status and Registration Office.

(3) A cardholder must not have more than 1 card issued at any given time.

(4) A person who is knowingly in possession of a card without either–

- (a) the lawful authority of the person to whom it was issued; or
- (b) the permission of the Registration Officer,

must surrender the card to the Registration Officer or nearest police officer as soon as is reasonably practicable.

(5) Where it appears to a police officer, Borders & Coastguard officer or the Registration Officer that a person is in possession of–

- (a) a card issued to another person;
- (b) a card that has expired or has been cancelled or is otherwise invalid;
- (c) a card that has not yet been cancelled but is of a description of cards that the Registration Officer has declared should be reissued; or
- (d) a card that is in the possession of a person in contravention of a relevant requirement,

the police officer, Borders & Coastguard officer or Registration Officer may require that person to surrender the card immediately.

(6) A person who fails to surrender a card under subregulation (4) or (5) is guilty of an offence.

Notice of change of particulars.

7.(1) A cardholder must notify the Registration Officer of–

- (a) every prescribed change of circumstances affecting the cardholders' particulars which are recorded in the card; and
- (b) every error in that information of which the cardholder should be reasonably aware of.

(2) A cardholder must within 3 days of any change of the circumstances affecting any particulars required to be provided to the Registration Officer in accordance with Schedule 2 to the Act, inform the Registration Officer accordingly and produce to the Registration Officer the card for such amendment as may be necessary.

Electronic services and advanced electronic signatures.

8.(1) The Government may offer electronic services via non-commercial communications to cardholders.

(2) A card and PIN will be required to access such services as the Government may provide, but where the cardholder does not wish to access the cards electronic services, the cardholder will be entitled to suspend the electronic validity of the card for such period as the cardholder notifies to the Registration Officer.

(3) A person who obtains information which is stored in a card in electronic form and disseminates it without the authorisation of the Registration Officer is guilty of an offence.

(4) If it is proven that the card was used fraudulently, then the transaction in respect of which the card was used shall be void.

(5) Pursuant to subregulation (4) a person who fraudulently uses an advanced electronic signature is guilty of an offence.

Public Key Infrastructure and qualified certificates for electronic signatures.

9.(1) There shall be a Public Key Infrastructure ("PKI") for Gibraltar.

(2) The Gibraltar PKI must comply with the ICAO standards set out in ICAO document X.509, as amended from time to time.

(3) The issuer of a qualified certificate for electronic signature issued under the Electronic Commerce Act for the purpose of providing electronic services to cardholders must include—

- (a) the number of the qualified certificate for electronic signature;
- (b) the name of the cardholder obtaining the electronic approval;
- (c) the period of validity of the electronic approval;
- (d) a description of the limitations on the scope of use of the electronic approval; and
- (e) a time stamp to preclude the possibility of undetectably changing the data after creation.

(4) A provider of electronic services or the Minister may make a written request to a qualified trust service provider to suspend or withdraw the provision of electronic services to a cardholder if—

- (a) the cardholder has acted in an improper manner whilst accessing an electronic service; and
- (b) on account of paragraph (a) the provider of electronic services or the Minister has provided a written notification to the cardholder stating that the cardholder has 5 days from receipt of notice upon which to make any written representations to request that the provision of electronic services is neither suspended nor withdrawn.

(5) Subject to subregulation (4), the qualified trust service provider must suspend or withdraw the provision of electronic services to the cardholder upon request from the provider of electronic services or the Minister.

Validity and renewal of a card.

10.(1) Subject to subregulation (2)—

- (a) an identity card will be valid from the date of issue for a period of 10 years; and
- (b) a civilian registration card will be valid from the date of issue until the date specified on the cardbody as the date of expiry.

(2) Pursuant to subregulation (1)(a) the Registration Officer may impose a validity period on an identity card which is for a shorter or longer time period.

(3) Pursuant to subregulation (1) if a person is under the age of 15 years on the day on which the identity card is issued, the identity card will expire on the date specified on the cardbody.

(4) Notwithstanding this regulation, a card will cease to be valid if the cardholder–

- (a) in the case of an identity card, ceases to be a person falling within paragraph 2 of Schedule 1 to the Act; or
- (b) in the case of a civilian registration card, ceases to be a person falling within paragraph 3 of Schedule 1 to the Act.

(5) An application for renewal must be made at the Civil Status and Registration Office and the prescribed fee for renewal must be paid.

Revocation of a card.

11.(1) The Registration Officer may revoke a card if–

- (a) the card is issued in reliance of inaccurate or incomplete information;
- (b) the card is lost, stolen, damaged, modified or destroyed;
- (c) there has been a modification of information recorded in the card data or cardbody;
- (d) the card or the data contained therein is inaccurate;
- (e) the cardholder has died;
- (f) another change of circumstances requires a modification of information recorded in the card data or cardbody;
- (g) it is a card or a description of cards that the Registration Officer has declared should be reissued; or
- (h) it is a Civilian Registration Card and the cardholder has had his residence of permit cancelled under the Immigration, Asylum & Refugee Act.

(2) In this regulation and in regulation 12–

- (a) references to a card having been damaged include references to anything in the card data or cardbody being, or having become, unreadable or otherwise unusable; and
- (b) references to a card having been modified, include references to information in the card data or cardbody having been modified for an unlawful purpose, or copied or otherwise extracted for such a purpose.

Loss or destruction of a card.

12.(1) If a card is lost, stolen, destroyed, modified or defaced, the cardholder must upon discovery of the loss, theft, destruction, modification or defacement, report the fact to the Registration Officer or nearest police officer as soon as reasonably practicable.

(2) If so directed by the Registration Officer or police officer, the cardholder must apply for the issue of a new card in substitution therefor and must pay the fee prescribed under regulation 5, and in the case of a defaced card, surrender the defaced card to that officer, whereupon the Registration Officer must cause the substitute to be issued.

(3) A person who destroys, modifies or defaces or seeks to destroy, modify or deface a card is guilty of an offence.

(4) A person who comes into possession of a card belonging to another person whether by reason of the cardholder's death or otherwise, must deliver or cause the card to be delivered to the Registration Officer or the nearest police officer, as soon as reasonably practicable.

(5) A person who without reasonable excuse fails to make a report under subregulation (1) or contravenes subregulation (4) is guilty of an offence.

Replacement of a card.

13.(1) A card must be replaced if the basis for issuing the card has not ceased to exist and—

- (a) there is a change in the data entered in the card or the data is inaccurate; or
- (b) the card becomes unusable or is destroyed or lost.

(2) The cardholder is required to notify the Registration Officer of any change in the data entered in the document within 1 month after the change is effected.

(3) A person who without reasonable excuse fails to make a notification under subsection (2) is guilty of an offence.

Possession of a false card, etc.

14. A person who has in their possession or control—

- (a) a card that purports to be a card, but which has not been issued by the Registration Officer; or
- (b) any apparatus, article or material which, to the person's knowledge, is or has been specially designed or adapted for the making of cards or to be used in the making of such cards,

is guilty of an offence.

Penalties.

15.(1) A person who is guilty of an offence under regulations 6, 12(5) or 13(3) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person who is guilty of an offence under regulations 8(3), 8(5) or 12(3) shall be liable—

- (a) on summary conviction to a term of imprisonment not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or both; or
- (b) on conviction on indictment to a term of imprisonment not exceeding 10 years or a fine not exceeding level 5 on the standard scale, or both.

(3) A person who is guilty of an offence under regulation 14 shall be liable—

- (a) on summary conviction to a term of imprisonment not exceeding 12 months or to a fine not exceeding level 5 on the standard scale, or both; or
- (b) on conviction on indictment to a term of imprisonment not exceeding 5 years or a fine not exceeding level 5 on the standard scale, or both.

Transitional provisions.

16.(1) The Civilians Registration Regulations 1993 are revoked.

(2) A card issued under the Civilians Registration Regulations 1993 will continue to be valid until the date of expiry or until a new card is issued to the person under these Regulations.

(3) Any court proceedings that have already been commenced for an offence under the Civilians Registration Regulations 1993 must continue as if the Civilians Registration Regulations 1993 had not been revoked.

(4) The Registration Officer may waive the requirement for payment of the fee prescribed under regulation 5–

- (a) upon the renewal of Civilian Registration Cards, as long as the cardholder has a renewable permit of residence issued under section 18 of the Immigration, Asylum & Refugee Act; or
- (b) for the issuing of identity cards, at any point up to the expiry of 3 months from the date of the coming into operation of these Regulations.

(5) Nothing in these Regulations shall permit a civilian registration card from being used as a valid travel document.

(6) Nothing in these Regulations may be construed as altering or affecting the application of the Data Protection Act 2004.

Administrative review.

17.(1) A person who is aggrieved by a decision in connection with an application for registration may, no later than 21 days after the date on which that person is given notice of the decision, apply to the Chief Secretary for a review of that decision.

(2) In considering an application for a review under this regulation the Chief Secretary must, where appropriate, have regard to the Withdrawal Agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement, as the case may be.

(3) The Chief Secretary must provide an applicant with reasons, in writing, following an application for a review.

Appeals.

18.(1) A person who is aggrieved by the outcome of a review conducted under regulation 17 may, within 21 days from the date of the review, appeal to the Supreme Court.

(2) Where the Supreme Court has considered an appeal under this regulation it may dismiss the appeal or submit the matter back to the Registration Officer along with such directions as it deems fit.

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SCHEDULE

Regulation 6(2)(a)

The following information is, as a minimum, to be recorded on a card:

IDENTITY CARD / CIVILIAN REGISTRATION CARD

Name
Sex
Nationality
Date of birth
Place of birth
Document number
Date of expiry
Signature
Photo
Personal number
Height
Colour of eyes
Date of issue
Issuing Authority
Address