



## **Identity Documents Bill**

### **House of Commons Second Reading**

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**For further information contact**

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## **Introduction**

1. Founded in 1957, JUSTICE is a UK-based human rights and law reform organisation. Its mission is to advance justice, human rights and the rule of law. It is the British section of the International Commission of Jurists.
2. JUSTICE opposed the introduction of ID cards and the National Identity Register. In our parliamentary briefings on the Identity Cards Bill (subsequently the 2006 Act), we argued that ID cards not only involved an unnecessary and undue invasion of privacy, but also were likely to be both impractical and expensive. We suggested that any efficiencies that might be seen to result from the adoption of ID cards would almost certainly be better obtained by a series of less ambitious measures, such as tightening up existing registers of births, marriages and deaths; or maintaining better lists of lost or stolen identity documents.
3. In light of our opposition to ID cards, we very much welcome the proposed repeal the 2006 Act as set out in this Bill. As we indicated in our response to the coalition government's programme in May, we hope that this measure will form part of a broader review of existing government databases. However, we question whether it is necessary to retain three criminal offences created by the 2006 Act, relating to the possession and use of false identity documents. In our view, it would be better to revert to the preexisting law in this area.

### **Clause 1 – Repeal of Identity Cards Act 2006**

4. This clause repeals the 2006 Act, save for three criminal offences which are re-enacted under clauses 4-6 of this Bill, a data-sharing power to enable verification of passport applications, and a minor amendment to the Consular Fees Act 1980. Subject to the concerns we raise below with the retention of those offences, we are happy to support this clause.

### **Clause 2 – Cancellation of ID cards, etc**

### **Clause 3 – Destruction of information recorded in National Identity Register**

5. We fully support clauses 2 and 3 of this Bill.

### **Clause 4 – Possession of false identity documents etc with improper intention**

### **Clause 5 – Apparatus designed or adapted for the making of false identity documents etc**

### **Clause 6 – Possession of false identity documents etc without reasonable excuse**

6. Clauses 4-6 essentially re-enact the criminal offences contained in section 25 of the 2006 Act.

7. While we agree that the use of false identity documents is a serious matter, we note that this was already covered by a variety of criminal offences well before the 2006 Act, including:
- i. section 5(1) of the Forgery and Counterfeiting Act 1981, which makes it an offence for a person to 'have in his custody or under his control an instrument ... which is, and which he knows or believes to be, false, with the intention that he or another shall use it to induce someone to accept it as genuine ... to [that person's or another's] detriment';
  - ii. section 5(2) of the 1981 Act, making it an offence to possess such an instrument without lawful excuse;
  - iii. section 5(3) of the 1981 Act, making it an offence to possess 'a machine or implement or paper or any other material ... specially designed or adapted' to making a false instrument;
  - iv. section 3 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, amending section 5 of the 1981 Act to make explicit reference to immigration documents;
  - v. section 26(1)(d) of the Immigration Act 1971, making it an offence to possess or use false immigration documents, including passports, work permits and entry clearance documents.
  - vi. the provisions of the Fraud Act 2006, including section 2 (fraud by representation), section 6 (possession etc of articles for use in frauds), and section 7 (making or supplying articles for use in frauds).
8. Section 3 of the 2004 Act was repealed by the 2006 Act, but the core of the offences in sections 5(1)-(3) of the 1981 Act have remained unamended. In light of the coalition government's determination to reverse the previous government's creation of unnecessary criminal offences,<sup>1</sup> we doubt the need to maintain the offences created by the 2006 Act.

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JUSTICE  
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<sup>1</sup> See e.g. *The Coalition: Our programme for government* (May 2010), p 11: 'We will introduce a mechanism to prevent the proliferation of unnecessary new criminal offences'.