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WEDNESDAY 16TH AUGUST, 2023

THE OFFICIAL GAZETTE 16TH AUGUST, 2023
LEGAL SUPPLEMENT — A

GUYANA

ACT No. 19 of 2023

DIGITAL IDENTITY CARD ACT 2023

I assent.

Mohamed Irfaan Ali,
President.
16th August, 2023

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AN ACT to provide for the establishment of a Registry for the collection of identity data of citizens fourteen years and over and non-citizens, including, skilled nationals of a Caribbean Community State and for the issuance of Digital Identity Cards containing digital identity data that were collected to facilitate electronic governance and to enhance government and other services and for related matters.

A.D. 2023 Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Digital Identity Card Act 2023 and shall come into operation on a date to be appointed by the Minister by Order.

Interpretation.

2. In this Act –

"Commissioner" means the Data Protection Commissioner appointed under section 72 of the Data Protection Act 2023;

No.18 of 2023

"dependant" has the same meaning assigned to that term in section 2 of the Immigration Act;

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"Minister" means the Minister responsible for data;

"public body" means a public office or ministry, department, agency, unit or other body of the Government including a statutory body; and

"Registry" means the Digital Identity Card Registry established under section 3.

PART II
THE DIGITAL IDENTITY CARD REGISTRY

Establishment of a Digital Identity Card Registry.

3. (1) There is established a registry to be known as the Digital Identity Card Registry for the collection of –

(a) identity data of citizens of Guyana fourteen years and over;

(b) identity and employment data of non-citizens who, as nationals of a Caribbean Community State, have entered Guyana under section 12 of the Immigration Act to exercise their rights and privileges conferred on them by the Caribbean Community (Free Entry of Skilled Nationals) Act and the Caribbean Community (Movement of Factors) Act;

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(c) identity and employment data of non-citizens, not nationals of Caribbean Community States, granted approval to work in Guyana under section 12 of the Immigration Act;

(d) identity data of the spouse and dependant members of the family and staff of an economic enterprise of the nationals referred to in paragraph (b) who entered Guyana under section 12 of the Immigration Act; and

(e) identity data of the dependants in Guyana of citizens referred to in paragraph (a), and dependants of non-citizens referred to in paragraph (c) who have been permitted to enter Guyana,

for the purpose of the issuance of a Citizen Digital Identity Card and a Non-Citizen Digital Identity Card to every citizen and non-citizen, as the case may be, whose data are collected under this Act.

(2) The Registry shall be administered by the Data Protection Commissioner, who is exclusively authorised to issue the Digital Identity Cards.

(3) The Commissioner may establish in every administrative region of Guyana one or more regional centres, including mobile centres, as may be necessary for the collection of data for Digital Identity Cards and the distribution of the Digital Identity Cards issued by the Commissioner.

(4) The Commissioner shall maintain and manage the Registry.

(5) The Commissioner in consultation with the Minister shall employ staff for the Registry and regional centres.

(6) The expenses of the Registry and regional centres, and payment of staff shall be payable out of funds provided by Parliament.

Central databases of the Registry.

4. (1) The Registry shall contain a central database of identity data of citizens collected under this Act and a central database of identity and employment data of non-citizens collected under this Act which shall be stored in the databases in electronic form.

(2) The Commissioner shall update the data of a person stored in any of the Registry's databases when such action is necessary under this Act.

(3) A person shall provide the relevant data required, as well as the pertinent documents to accredit any update requested in a Digital Identity Card.

Documents required for issuance, modification, renewal and replacement of a Card.

5. (1) For a person to be issued a Digital Identity Card under this Act, the person shall present himself and submit to a registry officer at the Registry or any of the regional centres or mobile centres –

(a) the person's birth certificate;

(b) the person's National Identification Card, Passport or any other identity document which to the satisfaction of the Commissioner reliably identifies the applicant; and

(c) a non-citizen shall, in addition to the documents in paragraphs (a) and (b), submit his lawful authority to work in Guyana and any other document required under the laws of Guyana or that the Commissioner may require.

(2) Any person applying for a Digital Identity Card's modification, renewal or replacement shall comply with the following requirements –

(a) provide the relevant data required, as well as the pertinent documents to accredit any change requested in the Card when it comes to the modification, renewal and replacement process; and

(b) in the case of renewal of the Card, the presentation of the birth certificate shall only be required when it does not exist in the applicant's file at the Registry.

(3) The Commissioner, in consultation with the Minister, shall prescribe by regulations, when and on what basis a person's biographic and biometric data in a central database shall be updated.

(4) In the event that a person's Digital Identity Card has been lost, stolen, damaged or destroyed, mutilated or defaced, the person must apply to the Commissioner for a replacement of the Digital Identity Card in the manner and form prescribed by regulations made by the Commissioner in consultation with the Minister.

(5) The Commissioner in consultation with the Minister shall prescribe by regulations the prerequisites for and manner and form of application for updating, modification, renewal and replacement of a Digital Identity Card.

PART III
A DIGITAL IDENTITY CARD

A Digital Identity Card, an official document.

6. (1) A Digital Identity Card shall be an official document, sufficient and necessary to lawfully identify the person in doing any business with a public body or private sector entity, whether in person or online, within Guyana or in any country that has a reciprocal agreement with Guyana for the use of such a card.

(2) Every citizen fourteen years and over and every non-citizen specified in section 3(1) shall attend the Registry and provide their data set out in section 3(1) to a registry officer at the Registry or any of the regional centres or mobile centres for the issuance of a Digital Identity Card.

(3) A Digital Identity Card is the property of the State and on renewal or replacement, unless lost, the Card renewed or replaced shall be returned to the Commissioner.

(4) The Commissioner shall by regulations prescribe fees to be paid for the renewal and replacement of a Digital Identity Card.

(5) The Commissioner may issue an electronic copy of a Digital Identity Card for installation into the mobile phone of the holder of a Card and into such other device that the Commissioner shall prescribe by regulations.

Cancellation on the death of a holder of a Digital Identity Card.

7. (1) A person's data in a database of the Registry shall be cancelled –

(a) on the death of the holder of the Digital Identity Card;

(b) by judicial declaration of nullity of the Digital Identity Card; and

(c) in such other cases as may be provided for by regulations made by the Commissioner in consultation with the Minister.

(2) The Registrar General of Births and Deaths, appointed under the Registration of Births and Deaths Act, shall send to the Commissioner once every month a list of all persons whose deaths have been registered under the Registration of Births and Deaths Act in the preceding month.

Cap. 44:01

(3) The Commissioner of Police shall send to the Commissioner once every four months a list of all persons whose deaths have been reported to or recorded by police stations or police outposts throughout the country in those months.

(4) The Chief Medical Officer of the Ministry of Health shall send to the Commissioner once every four months a list of all persons whose deaths have been reported to or recorded by hospitals or health centres throughout the country in those months.

(5) The Commissioner shall cancel the data of any person from the databases whose name is on the list of dead persons sent under subsections (2), (3) and (4).

Data to be entered in a Digital Identity Card.

8. (1) The following data of a person shall be entered digitally in a Digital Identity Card –

(a) names and surname;

(b) date and place of birth;

(c) coloured photo or facial image satisfying the requirements prescribed for a photograph or facial image for Guyana passport;

(d) a unique identification number;

(e) sex;

(f) citizenship;

(g) the fingerprints of the fingers of both hands, and if the applicant lacks any finger, this shall be recorded and the fingerprint of the other fingers shall be taken, which shall be specified, and if this is not possible it shall be so recorded;

(h) signature or image of signature;

(i) in the case of a non-citizen, in addition to all the other data set out in this subsection, the number of the application for a work permit;

and

(j) any other data that the Commissioner after consultation with the Minister may by regulations prescribe.

(2) The date of issue of a Digital Identity Card shall be stated on the Card.

(3) The unique identification number of a person shall be maintained until the death of the person and it shall be utilised by the public bodies and private entities as a unique identification of the person in tax, military records, health records, education records, driver's licences, passports, documents proving membership in the social security system and in any other field as may be prescribed.

(4) Data which enable identification of a person digitally, including a cryptographic key enabling digital identification and the respective certificate, and other digital data may be entered in a Digital Identity Card.

Protection of data collected.

9. (1) The Commissioner shall implement mechanisms and procedures that guarantee the privacy, confidentiality and security of the data collected in accordance with the Data Protection Act 2023.

(2) The Citizen Digital Identity Card and the Non-Citizen Digital Identity Card shall be made with high security materials and elements that offer durability, reliability and exclude any possible alteration, so that they cannot be the object of any fraud and consequently guarantee the identity of the holders of the cards.

(3) The Commissioner shall establish a quality control system for the entire process of issuing the Digital Identity Card.

International standards.

10. In creating and designing the Digital Identity Cards, the Commissioner shall take into account relevant international standards,

including –

(a) standards of the International Organisation for Standardisation (ISO) and International Electrotechnical Commission (IEC) describing the characteristics of identification cards, providing criteria to which identity cards shall perform, and specifying requirements for such cards used for international interchange; and

(b) standards and recommended practices of the International Civil Aviation Organisation.

Authentication of documents and validation of data on Digital Identity Cards.

11. (1) There shall be coordination between the Registry and the public bodies that issue official documents required for the issuance of a Digital Identity Card and updating of a person's data in the central databases, for the purpose of authentication of the documents necessary for the issuance of a Digital Identity Card, and updating and validating of the data in the central databases of the Registry, including the General Register Office of the Registrar General of births and deaths established under the Registration of Births and Deaths Act, the Commissioner of Registration appointed under section 3 of the National Registration Act and the Chief Immigration Officer under the Immigration Act.

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Cap. 19:08
Cap. 14:02

(2) Persons who provided their data shall ensure that their data is updated in the relevant central database as the case may be to reflect any change of the data.

(3) Public and private institutions, upon justification of legal interest, may request the Commissioner for verification of data on Digital Identity Cards.

PART IV
MISCELLANEOUS

Offences.

12. (1) A person commits an offence, if the person knowingly –

(a) submits data at more than one Registry for the issue to that person of more than one Digital Identity Card;

(b) uses a falsified or altered Digital Identity Card;

(c) falsifies or alters a Digital Identity Card; or

(d) has in the person's possession a Digital Identity Card which that person knows is falsified or altered.

(2) A person commits an offence if the person, when providing data for obtaining the issue, renewal or replacement of a Digital Identity Card –

(a) deliberately provides false data or submits a document containing data that is false; or

(b) makes a false statement of a material nature with the intention of misleading the Commissioner.

(3) A person commits an offence if the person –

(a) fraudulently obtains a Digital Identity card;

(b) fraudulently uses a Digital Identity Card; or

(c) falsely alleges the loss or destruction of that person's Digital Identity Card and applies for a new card while in possession of a Digital Identity Card.

(4) A person commits an offence if the person permits or induces another person to use a Digital Identity Card in order to impersonate a person.

(5) A person who commits an offence under this section is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

Destroying or defacing Digital Identity Cards or documents.

13. Every person who without lawful authority, the proof thereof shall lie upon that person –

(a) willfully destroys, mutilates, defaces or makes any alteration to a

digital identity card; or

(b) destroys, mutilates, defaces or removes, or makes any alteration in any database of the Registry or any document or copy thereof that has been made available to the Registry by any person or body in pursuance of this Act,

commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

Selling, purchasing or pledging Digital Identity Cards.

14. Every person who sells or attempts to sell, or purchases or attempts to purchase, or pledges or attempts to pledge, or receives by way of pledge in any manner whatsoever a Digital Identity Card commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for six months.

False data or records and Digital Identity Cards.

15. (1) Every person who, with intent to deceive, forges or counterfeits any data or record of the Registry or Digital Identity Card, or utters any Digital Identity Card knowing it to be forged, commits an offence and is liable on conviction on indictment to a fine of five million dollars and to imprisonment for five years.

(2) In subsection (1), references to forgery shall be construed according to the meanings assigned thereto by section 240 of the Criminal Law (Offences) Act.

(3) Every person who, directly or by implication, falsely represents himself to be the person to whom any Digital Identity Card refers commits an offence is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

Duty to send falsified or altered Card to Registry.

16. A person who or public or private institution that discovers a falsified or altered Digital Identity Card shall retain it and send it to the Registry within the following twenty-four hours so that the latter in turn may forward it to the Police for the corresponding investigations.

Breach of duty.

17. Every officer of the Registry, regional centres or mobile centres who –

(a) wilfully or without reasonable excuse, omits to collect any identity data or lawfully required document submitted to that officer by any person eligible in that behalf;

(b) willfully or without reasonable excuse enters in a database the data of any person who is not eligible to be issued a card or the data of any fictitious or non-existent person;

(c) wilfully or without reasonable excuse enters any false or incorrect data in a database; or

(d) wilfully or without reasonable excuse omits to enter in a database any identity data of a person that the officer knows or reasonably believes to be true,

commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.

National Identification Card.

18. The Digital Identity Cards issued under this Act are not replacement cards for the National Identification Cards issued under the National Registration Act.

Cap. 19:08

Regulations.

19. The Commissioner in consultation with the Minister may make regulations for the better carrying out of the provisions of this Act.

Passed by the National Assembly on the 9th August, 2023.

S.E. Isaacs A.A.,
Clerk of the National Assembly.

(BILL No. 15/2023)