Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No.

EXITING THE EUROPEAN UNION

IMMIGRATION

NATIONALITY

The Immigration, Nationality and Asylum (EU Exit) Regulations 2019

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 8(1) and 23(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**a**).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Immigration, Nationality and Asylum (EU Exit) Regulations 2019.

(2) These Regulations come into force on the later of exit day or the day after the day on which they are made.

(3) Subject to paragraphs (4) and (5), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(4) Any amendment, repeal or revocation made by these Regulations has the same extent within the United Kingdom as the provision to which it relates.

(5) Any saving or transitional provision in these Regulations has the same extent within the United Kingdom as the provision to which it relates.

(**a**) 2018 c. 16.

(6) In these Regulations "domestic law" means the law of England and Wales, Scotland or Northern Ireland.

PART 2

Immigration and Nationality

Chapter 1

Amendment of primary legislation

Amendment of the Marriage Act 1949

2. In section 78 of the Marriage Act 1949(**a**) (interpretation), in subsection (1), in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom".

Amendment of the Aliens' Employment Act 1955

3.—(1) The Aliens' Employment Act 1955(**b**) is amended as follows.

(2) In section 1(5) (definition of a "relevant European")—

(a) for paragraph (a) substitute—

"(a) a national of an EEA State or a person, other than a person to whom paragraph (b) applies, who is entitled to reside in the United Kingdom by virtue of regulation 13, 14, 15 or 16 of the Immigration (European Economic Area) Regulations 2016(**c**);";

(b) for paragraph (b) substitute—

"(b) a Swiss national or a person who is entitled to take up any activity as an employed person in the United Kingdom by virtue of rights which—

(i) are derived from Article 7(e) of the Swiss free movement agreement and Article 3(5) of Annex 1 of that agreement, and

(ii) continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018;";

(c) for paragraph (c) substitute—

"(c) a person who is entitled to take up any activity as an employed person in the United Kingdom by virtue of rights which—

(i) are derived from Article 6(1) or 7 (rights of certain Turkish nationals and their family members to take up any economic activity, whatever their nationality) of Decision 1/80 of 19 September 1980 of the Association Council set up by the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963, and

(ii) continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018.".

(3) After section 1(5) insert—

"(5A) In subsection (5), "the Swiss free movement agreement" means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (done at Luxembourg on 21 June 1999).".

(**a**) 1949 c. 76. The definition of "relevant national" in section 78(1) was inserted by paragraph 17 of Schedule 4 to the Immigration Act 2014 (c. 22). There have been other amendments to this section which are not relevant to these Regulations.

(**b**) 1955 c. 18. Section 1(5) was inserted by S.I. 2007/617.

(**c**) S.I. 2016/1052. Regulations 13 to 16 were amended by S.I. 2018/801. There have been other amendments to the Regulations which are not relevant to these Regulations.

Amendment of the Immigration Act 1971

4.—(1) The Immigration Act 1971(**a**) is amended as follows.

(2) In section 2 (statement of right of abode in United Kingdom)(**b**), in subsection (2), for "and section 5(2)" substitute ", section 5(2) and section 25".

(3) In section 25 (assisting unlawful immigration to member State)(**c**)—

(a) in the heading, after "member State" insert "or the United Kingdom";

(b) in subsection (1)—

(i) in each place where it appears, for "not" substitute "neither";

(ii) in each place where it appears, after "citizen of the European Union" insert "nor a national of the United Kingdom";

(c) in subsection (2)—

(i) after "member State" insert "or the United Kingdom";

(ii) after "of the State" insert "or, as the case may be, of the United Kingdom";

(iii) in paragraphs (a), (b) and (c), after "the State" insert "or the United Kingdom";

(d) after subsection (2), insert—

"(2A) In subsections (1) and (2), "national of the United Kingdom" means—

(a) a British citizen;

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981(**d**) and who has the right of abode in the United Kingdom; or

(b) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.";

(e) in subsection (7)(a), for the words from "a State" to the end substitute "Norway or Iceland";

(f) in subsection (7)(b), for "a State on that list", substitute "Norway or Iceland";

(g) omit subsection (8).

(4) In section 25C (forfeiture of vehicle, ship or aircraft)(**e**), in subsection (9)(a), after "a member State" insert "or the United Kingdom".

Amendment of the Marriage (Scotland) Act 1977

5. In section 26 of the Marriage (Scotland) Act 1977(**f**) (interpretation), in subsection (2), in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom".

Amendment of the Rent Act 1977

6. In Schedule 15 to the Rent Act 1977(**g**) (grounds for possession of dwelling-houses let on or subject to protected or statutory tenancies), in Part 1 (cases in which a court may order

---

(**a**) 1971 c. 77.

(**b**) Section 2 was substituted by section 39(2) of the British Nationality Act 1981 (c. 61). Subsection (2) was amended by section 3(3) of the Immigration Act 1988 (c.14). There have been other amendments to this section which are not relevant to these Regulations.

(**c**) Section 25 was substituted by section 143 of the Nationality, Immigration and Asylum Act 2002 (c. 41). Subsection (1) was amended by paragraph 2 of Schedule 14 to the Immigration Act 2016 (c. 19). Subsections (7) and (8) were inserted by section 1(1) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) and amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.

(**d**) 1981 c.61.

(**e**) Section 25C was substituted by section 143 of the Nationality, Immigration and Asylum Act 2002. Subsection (9)(a) was amended by section 1(2) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. There have been other amendments to this section which are not relevant to these Regulations.

(**f**) 1977 c. 15. The definition of "relevant national" in section 26(2) was inserted by S.I. 2015/396. There have been other amendments to this section which are not relevant to these Regulations.

(**g**) 1977 c. 42. Case 10A was inserted by section 41(6) of the Immigration Act 2016 (c. 19).

possession), in Case 10A, in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom".

Amendment of the British Nationality Act 1981

7. For section 5 of the British Nationality Act 1981(**a**) (acquisition by registration: nationals for purposes of the EU Treaties) substitute—

> **"5 Acquisition by registration: British overseas territories citizens having connection with Gibraltar**
>
> A person who is a British overseas territories citizen by virtue of a connection with Gibraltar is entitled to be registered as a British citizen if an application is made for their registration as such a citizen.".

Amendment of the Immigration Act 1988

8.—(1) The Immigration Act 1988(**b**) is amended as follows.

(2) In section 7 (persons exercising Community rights and nationals of member States)—

(a) for the heading, substitute "Rights under retained EU law";

(b) in subsection (1), for the words from "an enforceable EU right" to the end, substitute—

"—

(a) a retained enforceable EU right, or

(b) any provision made under section 2(2) of the European Communities Act 1972(**c**) as that provision is modified from time to time.";

(c) after subsection (1), insert—

"(1A) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

Amendment of the Housing Act 1988

9. In Schedule 2 to the Housing Act 1988(**d**) (grounds for possession of dwelling-houses let on assured tenancies), in Part 1 (grounds on which court must order possession), in ground 7B, in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom".

Amendment of the Police Act 1997

10. In Schedule 8B to the Police Act 1997(**e**) (offences which are to be disclosed subject to rules), in paragraph 69 (immigration, etc), in sub-paragraph (c), in the words in brackets, after "member State" insert "or the United Kingdom".

(**a**) 1981 c. 61. Section 5 was amended by section 2(2)(b) of the British Overseas Territories Act 2002 (c. 8) and by S.I. 2011/1043.
(**b**) 1988 c. 14. Section 7 was amended by S.I. 2011/1043.
(**c**) 1972 c. 68.
(**d**) 1988 c. 50. Ground 7B was inserted by section 41(2) of the Immigration Act 2016 (c. 19).
(**e**) 1997 c. 50. Schedule 8B was inserted by S.S.I. 2015/423.

Amendment of the Immigration and Asylum Act 1999

11.—(1) The Immigration and Asylum Act 1999(**a**) is amended as follows.

(2) In section 10 (removal of persons unlawfully in the United Kingdom)(**b**)—

(a) in subsection (5), for the words from "an enforceable EU right" to the end, substitute—

"—

(a) a retained enforceable EU right, or

(b) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.";

(b) after subsection (5), insert—

"(5A) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(3) In section 24 (duty to report suspicious marriages)(**c**), in subsection (6)—

(a) in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom";

(b) omit the definition of "United Kingdom immigration law".

(4) In section 24A (duty to report suspicious civil partnerships)(**d**), in subsection (5A)—

(a) in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom";

(b) omit the definition of "United Kingdom immigration law".

(5) In section 82 (interpretation of Part V)(**e**), in subsection (1), in the definition of "relevant matters"—

(a) after paragraph (f) insert—

"(fa)admission to the United Kingdom under retained EU law;";

(b) after paragraph (g) insert—

"(ga) residence in the United Kingdom in accordance with rights conferred by or under retained EU law;".

(6) In section 84 (provision of immigration services)(**f**), in subsection (2)—

(a) omit paragraphs (c) and (d) (but not the "or" at the end of paragraph (d));

(b) in paragraph (e), for "(d)" substitute "(ba)".

(7) In section 86 (designated professional bodies)(**g**), in subsection (8), in paragraph (a), for "an EEA State" substitute "Scotland or Northern Ireland".

(**a**) 1999 c. 33.

(**b**) Section 10 was substituted by section 1 of the Immigration Act 2014 (c. 22). There have been other amendments to this section which are not relevant to these Regulations.

(**c**) Section 24(6) was substituted by section 55(2) of the Immigration Act 2014. There have been other amendments to this section which are not relevant to these Regulations.

(**d**) Section 24A was inserted by section 261(1) of, and paragraph 162 of Schedule 27 to, the Civil Partnership Act 2004. Subsection (5A) was inserted by section 55(1) and (3) of the Immigration Act 2014 (c. 22). There have been other amendments to this section which are not relevant to these Regulations.

(**e**) Section 82 was amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.

(**f**) Section 84 was amended by section 37(1) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and by paragraph 12(2)(b) of Schedule 18 to the Legal Services Act 2007 (c. 29). There have been other amendments to this section, which are not relevant to these Regulations.

(**g**) Section 86 was amended by paragraph 13(5) of Schedule 18 to the Legal Services Act 2007. There have been other amendments to this section which are not relevant to these Regulations.

(8) In section 93 (disclosure of information)(**a**), in subsection (3)(b), omit "or any EU obligation of the Commissioner".

Amendment of the Nationality, Immigration and Asylum Act 2002

12.—(1) The Nationality, Immigration and Asylum Act 2002(**b**) is amended as follows.

(2) In section 109 (European Union and European Economic Area)(**c**), in subsection (1), for "any of the EU treaties" substitute "retained EU law".

(3) In section 126 (physical data: compulsory provision)(**d**)—

(a) in subsection (2)(e), for the words from "an enforceable EU right" to the end, substitute—

"—

(i) a retained enforceable EU right, or

(ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.";

(b) after subsection (2) insert—

"(2A) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(4) In section 141 (EEA ports: juxtaposed controls)—

(a) in subsection (1), after "immigration control at" insert "a United Kingdom port or";

(b) in subsection (6)—

(i) in the definition of "EEA port" omit "or from";

(ii) after the definition of "specified area" insert—

""United Kingdom port" means a port in the United Kingdom from which passengers are commonly carried by sea to an EEA State.".

(5) In Schedule 3 (withholding and withdrawal of support)—

(a) in paragraph 3 (exceptions)(**e**), for "the EU treaties" substitute "retained EU law";

(b) in paragraph 4 (first class of ineligible person: refugee status abroad), in sub-paragraph (2)—

(i) in paragraph (a), after "EEA State" insert "and is not a British citizen"; and

(ii) in paragraph (b), omit "other than the United Kingdom";

(c) in paragraph 5, in each of sub-paragraphs (a) and (b) (second class of ineligible person: citizen of other EEA states), omit "other than the United Kingdom" and in the italic heading before paragraph 5 omit "other";

(d) in paragraph 7C(1)(c) (seventh class of ineligible person: primary carer without leave to enter or remain) (as inserted by paragraph 9 of Schedule 12 to the Immigration Act 2016(**f**)), for "another" substitute "an".

(**a**) Section 93 was amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.
(**b**) 2002 c. 41.
(**c**) Section 109 was amended by S.I. 2011/1043.
(**d**) Section 126 was amended by section 8(2) of the Immigration Act 2014 (c. 22). There have been other amendments to this section which are not relevant to these Regulations.
(**e**) Paragraph 3 was amended by S.I. 2011/1043.
(**f**) 2016 c. 19. Paragraph 9 of Schedule 12 is not yet in force.

Amendment of the Marriage (Northern Ireland) Order 2003

13. In article 2 of the Marriage (Northern Ireland) Order 2003(**a**) (interpretation), in paragraph (2), in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom".

Amendment of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

14. In section 2 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**b**) (entering United Kingdom without passport, etc.), in each of subsections (4)(b) and (5)(b), for "the EU Treaties" substitute "retained EU law".

Amendment of the Civil Partnership Act 2004

15. In section 30A of the Civil Partnership Act 2004(**c**) (relevant nationals), in paragraph (b), omit "other than the United Kingdom".

Amendment of the Serious Crime Act 2007

16. In Schedule 3 to the Serious Crime Act 2007(**d**) (listed offences), in paragraph 11, in the words in brackets, after "member State" insert "or the United Kingdom".

Amendment of the UK Borders Act 2007

17.—(1) The UK Borders Act 2007(**e**) is amended as follows.

(2) In section 32 (automatic deportation), in subsection (1)(a), after "British citizen" insert "or an Irish citizen".

(3) In section 33 (exceptions to automatic deportation)(**f**), for subsection (4) substitute—

"(4) Exception 3 is where—

(a) the foreign criminal—

(i) was lawfully resident in the United Kingdom immediately before commencement day by virtue of the EU Treaties, or

(ii) has leave to enter or remain in the United Kingdom which was granted by virtue of residence scheme immigration rules, and

(b) the offence of which the foreign criminal was convicted as mentioned in section 32(1)(b) consisted of or included conduct that took place before commencement day.

(4A) For the purposes of exception 3, a person is to be treated as having been resident in the United Kingdom—

(a) at any time which would be taken into account for the purposes of calculating periods when the person was continuously resident for the purposes of the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) (see regulation 3);

(b) at any time at which the person has a right of permanent residence in the United Kingdom under those Regulations (see regulation 15).

(4B) For the purposes of exception 3—

(**a**) S.I. 2003/413 (N.I. 3).
(**b**) 2004 c. 19. Section 2 was amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.
(**c**) 2004 c. 33. Section 30A was inserted by paragraph 27 of Schedule 4 to the Immigration Act 2014.
(**d**) 2007 c. 27.
(**e**) 2007 c. 30.
(**f**) Section 33 was amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.

"commencement day" means the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force;

"residence scheme immigration rules" means—

(a) Appendix EU to the immigration rules(**a**) except those rules, or changes to that Appendix, which are identified in the immigration rules as not having effect in connection with the residence scheme that operates in connection with the withdrawal of the United Kingdom from the European Union, and

(b) any other immigration rules which are identified in the immigration rules as having effect in connection with the withdrawal of the United Kingdom from the European Union.".

(4) In section 56A (no rehabilitation for certain immigration and nationality purposes)(**b**), in subsection (3), for "any provision made under section 2(2) of the European Communities Act 1972, or of EU law," substitute "any retained EU law".

Amendment of the Criminal Justice and Immigration Act 2008

18.—(1) The Criminal Justice and Immigration Act 2008(**c**) is amended as follows.

(2) In section 130 (designation), in subsection (5)(b), for "the EU treaties" substitute "retained EU law".

(3) In section 136 (end of designation), in subsection (1)(b), for "the EU treaties" substitute "retained EU law".

Amendment of the Borders, Citizenship and Immigration Act 2009

19.—(1) The Borders, Citizenship and Immigration Act 2009(**d**) is amended as follows.

(2) In section 1 (general customs functions of the Secretary of State), in subsection (8)(c), for "EU law" in each place where it appears substitute "retained EU law".

(3) In section 7 (customs revenue functions of the Director), in subsection (2), omit paragraph (a).

(4) In section 26 (transfer schemes), in subsection (7), in the definition of "relevant function", in paragraph (b), for "EU law" substitute "retained EU law".

(5) In section 38 (interpretation), omit the definition of "EU law".

Amendment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012

20. In Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**e**) (services), in paragraph 30 (immigration: rights to enter and remain)—

(a) for sub-paragraph (1), substitute—

"(1) Civil legal services provided in relation to rights to enter, and to remain in, the United Kingdom which—

(a) arise from—

(i) the Refugee Convention; or

(ii) Article 2 or 3 of the Human Rights Convention; or

(b) are conferred by—

(**a**) Laid before Parliament on 23rd May 1994 (HC 395), as amended. Appendix EU was laid before Parliament on 20th July 2018 (CM 9675).
(**b**) Section 56A was inserted by section 140 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
(**c**) 2008 c. 4. Sections 130 and 136 were amended by S.I. 2011/1043.
(**d**) 2009 c. 11. Sections 1, 26 and 38 were amended by S.I. 2011/1043. There have been other amendments to these sections which are not relevant to these Regulations.
(**e**) 2012 c. 10. There have been amendments to Schedule 1 which are not relevant to these Regulations.

(i) immigration rules, insofar as they implemented the Qualification Directive; or

(ii) any other provision of retained EU law which implemented the Qualification Directive.";

(b) in sub-paragraph (4)—

(i) after the definition of "the Human Rights Convention", insert—

""immigration rules" has the meaning given by section 33(1) of the Immigration Act 1971(**a**);";

(ii) omit the definition of "the Temporary Protection Directive".

Amendment of the Immigration Act 2014

21.—(1) The Immigration Act 2014(**b**) is amended as follows.

(2) In section 21 (persons disqualified by immigration status or with limited right to rent)—

(a) in subsection (4)(b)(ii)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) after subsection (4), insert—

"(4A) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.";

(c) in subsection (5)(b), omit "other than the United Kingdom".

(3) In section 27 (eligibility period), in subsection (6)(a)—

(a) for the words from "an enforceable EU right" to "1972", substitute—

"—

(i) a retained enforceable EU right, or

(ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time";

(b) after subsection (6), insert—

"(7) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(4) In section 42 ("bank" and "building society")—

(a) omit subsection (2)(b);

(b) in subsection (3), in each place where it appears, omit "or firm".

(5) In section 49 (exempt persons)—

(a) in subsection (2)(a), for the words from "an enforceable EU right" to the end, substitute—

"—

(**a**) 1971 c. 77. There have been amendments to section 33(1) which are not relevant to these Regulations.
(**b**) 2014 c. 22.

(i) a retained enforceable EU right, or

(ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time;";

(b) after subsection (2), insert—

"(2A) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(6) In section 62 (interpretation of Part 4), in subsection (1), in the definition of "relevant national", in paragraph (b), omit "other than the United Kingdom".

(7) In section 70A (immigration skills charge)(**a**)—

(a) in subsection (6)(b), omit "other than the United Kingdom";

(b) in subsection (6)(d), for the words from "an enforceable EU right" to the end, substitute—

"—

(i) a retained enforceable EU right, or

(ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.";

(c) after subsection (6), insert—

"(6A) "Retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the coming into force of this subsection, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

Amendment of the Modern Slavery Act 2015

22. In Schedule 4 to the Modern Slavery Act 2015(**b**) (offences to which defence in section 45 does not apply), in paragraph 16, in the words in brackets, after "member state" insert "or the United Kingdom".

Chapter 2

Amendment of subordinate legislation

Amendment of the Special Constables Regulations 1965

23. The existing provisions of regulation 1 of the Special Constables Regulations 1965(**c**) (qualifications for appointment) become paragraph (1) of that regulation and—

(a) in sub-paragraph (a) of those provisions, after "if not a national of" insert "the United Kingdom or";

(b) after those provisions insert—

(**a**) Section 70A was inserted by section 85(1) and (2) of the Immigration Act 2016 (c. 19).

(**b**) 2015 c. 30.

(**c**) S.I. 1965/536. Regulation 1 was amended by S.I. 2002/3180, 2006/2278, 2012/1961. There have been other amendments to this regulation which are not relevant to these Regulations.

"(2) For the purposes of this regulation, "national of the United Kingdom" means—

(a) a British citizen;

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.".

Amendment of the Immigration (Control of Entry through Republic of Ireland) Order 1972

24. In article 4 of the Immigration (Control of Entry through Republic of Ireland) Order 1972(**a**)—

(a) in paragraph (1)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) in paragraph (8), for the words from "an enforceable EU right" to the end, substitute—

"—

(a) a retained enforceable EU right, or

(b) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.";

(c) at the end insert—

"(9) For the purposes of paragraphs (1) and (8)—

"retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when this paragraph comes into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

Amendment of the Immigration (Leave to Enter and Remain) Order 2000

25. In article 13B of the Immigration (Leave to Enter and Remain) Order 2000(**b**) (partners and children of certain Crown servants etc)—

(a) in paragraph (2)(b)(iii)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) after paragraph (2), insert—

"(2A) For the purposes of subsection (2)(b)(iii)—

"retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when this paragraph comes into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(**a**) S.I. 1972/1610; amended by S.I. 1982/1028, 2014/2475. There have been other amendments to the Order which are not relevant to these Regulations

(**b**) S.I. 2000/1161; amended by S.I. 2016/1132. There have been other amendments to the Order which are not relevant to these Regulations.

Amendment of the Detention Centre Rules 2001

26.—(1) The Detention Centre Rules 2001(**a**) are amended as follows.

(2) In rule 9 (detention reviews and up-date of claim), in paragraph (3), in each of sub-paragraphs (d) and (e), for "EU law" substitute "retained EU law".

(3) In rule 27 (correspondence), in paragraph (6), omit "the European Court of Justice,".

Amendment of the Police Trainee Regulations (Northern Ireland) 2001

27. The existing provisions of regulation 2A of the Police Trainee Regulations (Northern Ireland) 2001(**b**) (qualifications for appointment as a police trainee) become paragraph (1) of that regulation and—

(a) in sub-paragraph (a) of those provisions, for "a Member State, Norway, Iceland or Liechtenstein" substitute "the United Kingdom or an EEA State";

(b) after those provisions insert—

"(2) In this regulation—

"EEA State", in relation to a time, means—

(a) a state which at that time is a member State, or

(b) any other state which at that time is a party to the EEA agreement;

"national of the United Kingdom" means—

(a) a British citizen,

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.".

Amendment of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003

28. In article 12 of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003(**c**) (application of criminal law to a Control Zone in France), in paragraph (1)(b), after "member State" insert "or the United Kingdom".

Amendment of the Police Regulations 2003

29. In regulation 10 of the Police Regulations 2003(**d**) (qualifications for appointment to a police force)—

(a) in paragraph (1)(a), for "a Member State, Norway, Iceland or Liechtenstein" substitute "the United Kingdom or an EEA State";

(b) in paragraph (3)—

(i) omit "and" at the end of sub-paragraph (a);

(ii) after sub-paragraph (aa) insert—

"(ab) "national of the United Kingdom" means—

(i) a British citizen;

(**a**) S.I. 2001/238; amended by S.I. 2010/21, 2011/1043. There have been other amendments to the Rules which are not relevant to these Regulations

(**b**) S.R. 2001 No. 369. Regulation 2A was inserted by S.R. 2008 No. 314. There have been other amendments to the Regulations which are not relevant to these Regulations.

(**c**) S.I. 2003/2818. There have been amendments to the Order which are not relevant to these Regulations

(**d**) S.I. 2003/527. Regulation 10(1)(a) was substituted by S.I. 2005/2834. There have been other amendments to the Regulations which are not relevant to these Regulations.

(ii) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or

(iii) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar;".

Amendment of the British Nationality (General) Regulations 2003

30.—(1) The British Nationality (General) Regulations 2003(**a**) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), at the appropriate place insert—

""retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(3) In regulation 4 (authority to whom application is to be made), in paragraph (3), for "(acquisition by registration: nationals for purposes of the EU Treaties)" substitute "(acquisition by registration: British overseas territories citizens having connection with Gibraltar)".

(4) In regulation 7E (use and retention of biometric information), in paragraph (2)(e), for the words from "an enforceable EU right" to the end, substitute—

"—

(i) a retained enforceable EU right, or

(ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.".

(5) In regulation 7G (retention of fingerprints)—

(a) in paragraph (2)(f)(ii)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) in paragraph (4), for "Article 16 of the Council Directive 2004/38/EC" substitute "regulation 15 of the Immigration (European Economic Area) Regulations 2016".

(6) In Schedule 2 (particular requirements as respects applications)—

(a) in paragraph 7(1A) (application under section 4(2) of the Act)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) in paragraph 12(a) (application under section 5 of the Act), for "for the purposes of the EU treaties" substitute "by virtue of a connection with Gibraltar";

(c) in paragraph 13(1A) (application under section 6(1)) and 14(1A) (application under section 6(2) of the Act)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time".

(**a**) S.I. 2003/548; amended by S.I. 2007/3137, 2011/1043, 2015/738, 1806. There have been other amendments to the Regulations which are not relevant to these Regulations.

Amendment of the Police Reserve Trainee Regulations (Northern Ireland) 2004

31. In regulation 1B of the Police Reserve Trainee Regulations (Northern Ireland) 2004(**a**) (appointment as a police reserve trainee)—

(a) in paragraph (1)(a), for "a Member State, Norway, Iceland or Liechtenstein" substitute "the United Kingdom or an EEA State";

(b) after paragraph (3) insert—

"(4) In this regulation—

"EEA state", in relation to a time, means—

(a) a state which at that time is a member State, or

(b) any other state which at that time is a party to the EEA agreement;

"national of the United Kingdom" means—

(a) a British citizen,

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.".

Amendment of the Police Service of Northern Ireland Regulations 2005

32. In regulation 10 of the Police Service of Northern Ireland Regulations 2005(**b**) (qualifications for appointment (where no service as a police trainee))—

(a) in paragraph (1)(a), for "a Member State, Norway, Iceland or Liechtenstein" substitute "the United Kingdom or an EEA State";

(b) in paragraph (3)—

(i) omit "and" at the end of sub-paragraph (a);

(ii) after sub-paragraph (a) insert—

"(aa) "EEA state", in relation to a time, means—

(i) a state which at that time is a member State, or

(ii) any other state which at that time is a party to the EEA agreement;

(ab) "national of the United Kingdom" means—

(i) a British citizen,

(ii) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or

(iii) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar;".

Amendment of the Immigration (Provision of Physical Data) Regulations 2006

33.—(1) The Immigration (Provision of Physical Data) Regulations 2006(**c**) are amended as follows.

(2) In regulation 2 (interpretation)—

(**a**) S.R. 2004 No. 2. Regulation 1B was inserted by S.R. 2009 No. 391. There have been other amendments to the Regulations which are not relevant to these Regulations.

(**b**) S.R. 2005 No. 547; amended by S.R. 2008 No. 325. There have been other amendments to the Regulations which are not relevant to these Regulations.

(**c**) S.I. 2006/1743; amended by S.I. 2015/737. There have been other amendments to the Regulations which are not relevant to these Regulations.

(a) in the definition of "application", in paragraph (d)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) at the appropriate place insert—

""retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(3) In regulation 8 (use and retention of biometric information), in paragraph (2)(e), for the words from "an enforceable EU right" to the end, substitute—

"—

(i) a retained enforceable EU right, or

(ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.".

(4) In regulation 10 (retention of fingerprints)—

(a) in paragraph (2)(f)(ii)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time".

(b) in paragraph (4), for "Article 16 of the Council Directive 2004/38/EC" substitute "regulation 15 of the Immigration (European Economic Area) Regulations 2016".

Amendment of the Immigration (Biometric Registration) Regulations 2008

34.—(1) The Immigration (Biometric Registration) Regulations 2008(**a**) are amended as follows.

(2) In regulation 2, at the appropriate place insert—

""retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time;".

(3) In regulation 9 (use and retention of biometric information), in paragraph (2)(e)—

(a) for "an enforceable EU right" substitute "a retained enforceable EU right";

(b) after "1972" insert "as that provision is modified from time to time".

(4) In regulation 11 (retention of fingerprints)—

(a) in paragraph (2)(f)(ii)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(**a**) S.I. 2008/3048; amended by S.I. 2015/433. There have been other amendments to the Regulations which are not relevant to these Regulations.

(b) in paragraph (4), for "Article 16 of the Council Directive 2004/38/EC" substitute "regulation 15 of the Immigration (European Economic Area) Regulations 2016".

Amendment of the Police Service of Scotland Regulations 2013

35. In regulation 6 of the Police Service of Scotland Regulations 2013(**a**) (qualifications for appointment to the Police Service)—

(a) in paragraph (1)(i), after "if not a national of" insert "the United Kingdom or";

(b) after paragraph (3) insert—

"(4) For the purposes of this regulation, "national of the United Kingdom" means—

(a) a British citizen;

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.".

Amendment of the Police Service of Scotland (Special Constables) Regulations 2013

36. In regulation 5 of the Police Service of Scotland (Special Constables) Regulations 2013(**b**) (qualifications for appointment as a special constable)—

(a) in paragraph (1)(h), after "if not a national of" insert "the United Kingdom or";

(b) after paragraph (4) insert—

"(5) For the purposes of this regulation, "national of the United Kingdom" means—

(a) a British citizen;

(b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or

(c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.".

Amendment of the Immigration (Passenger Transit Visa) Order 2014

37. In article 2(6) of the Immigration (Passenger Transit Visa) Order 2014(**c**), in the definition of "Schengen Acquis State", omit "United Kingdom and".

Amendment of the Referral of Proposed Marriages and Civil Partnerships Regulations 2015

38. In Schedule 1 to the Referral of Proposed Marriages and Civil Partnerships Regulations 2015(**d**) (evidence of particular immigration status), in paragraph 1 (permanent residence)—

(a) in sub-paragraph (1)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) in sub-paragraph (2)—

(i) the words after "In this paragraph" become a new sub-paragraph;

(ii) at the end insert—

(**a**) S.S.I. 2013/35; amended by S.S.I 2013/122. There have been other amendments to the Regulations which are not relevant to these Regulations.

(**b**) S.S.I. 2013/43; amended by S.S.I. 2013/122. There have been other amendments to the Regulations which are not relevant to these Regulations.

(**c**) S.I. 2014/2702. There have been amendments to the Order which are not relevant to these Regulations.

(**d**) S.I. 2015/123.

""retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

Amendment of the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc) Regulations 2015

39. In regulation 18 of the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc) Regulations 2015(**a**) (prescribed information about the investigation)—

(a) in paragraph (2)(b)(ii)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) after paragraph (2), insert—

"(3) For the purposes of paragraph (2)(b)(ii) "retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when this paragraph comes into force; and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

Amendment of the Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015

40. In Schedule 1 to the Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015(**b**) (evidence of particular immigration status), in paragraph 1 (permanent residence)—

(a) in sub-paragraph (1)—

(i) for "an enforceable EU right" substitute "a retained enforceable EU right";

(ii) after "1972" insert "as that provision is modified from time to time";

(b) in sub-paragraph (2)—

(i) the words after "In this paragraph" become a new sub-paragraph;

(ii) at the end insert—

""retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.".

(**a**) S.I. 2015/397.
(**b**) S.I. 2015/404.

Amendment of the Immigration (Health Charge) Order 2015

41. In Schedule 2 to the Immigration (Health Charge) Order 2015(**a**), in paragraph 1(l), for "an EU obligation (within the meaning of Part 2 of Schedule 1 to the European Communities Act 1972)" substitute "a retained EU obligation".

Amendment of the Immigration and Nationality (Fees) Order 2016

42. In article 2 of the Immigration and Nationality (Fees) Order 2016(**b**) (interpretation)—

(a) in the definition of "European residence document", for the words from "an enforceable EU right" to the end, substitute—

"—

(a) a retained enforceable EU right; or

(b) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time;";

(b) at the appropriate place insert—

""retained enforceable EU right" means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force; and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time;".

Amendment of the Immigration (European Economic Area) Regulations 2016

43.—(1) The Immigration (European Economic Area) Regulations 2016 are amended as follows.

(2) In regulation 2 (general interpretation)—

(a) in each of the definitions of "civil partnership of convenience", "durable partnership of convenience" and "marriage of convenience"—

(i) for "other right" substitute "right";

(ii) for "the EU Treaties" in each place it appears substitute "retained EU law";

(b) in the definition of "EEA State", in paragraph (a), omit ", other than the United Kingdom".

(3) In regulation 13 (initial right of residence), in paragraph (4), after "26(3) (misuse of right to reside)" insert ", 27A (decisions taken on conducive grounds)".

(4) In regulation 14 (extended right of residence), in paragraph (4), after "26(3)" insert ", 27A".

(5) In regulation 23 (exclusion and removal from the United Kingdom)—

(a) in paragraph (1), after "regulation 27", insert "or on conducive grounds in accordance with regulation 27A";

(b) in paragraph (5), after "regulation 27", insert "or on conducive grounds in accordance with regulation 27A";

(c) in paragraph (6)(b), after "regulation 27", insert ", on conducive grounds in accordance with regulation 27A or has made a deportation order in relation to the person by virtue of section 32 of the UK Borders Act 2007";

(**a**) S.I. 2015/792. There have been amendments to the Order which are not relevant to these Regulations.
(**b**) S.I. 2016/177. There have been amendments to the Order which are not relevant to these Regulations.

(d) in paragraph (7)(b), after "regulation 27", insert ", on conducive grounds in accordance with regulation 27A or if the person is subject to a deportation order by virtue of section 32 of the UK Borders Act 2007".

(6) In regulation 24 (refusal to issue or renew and revocation of residence documentation)—

(a) in paragraph (1), after "public health" insert "in accordance with regulation 27, or on conducive grounds in accordance with regulation 27A";

(b) in paragraph (6)(a), after "public health" insert "in accordance with regulation 27 or on conducive grounds in accordance with regulation 27A";

(c) omit paragraph (7).

(7) In regulation 25 (cancellation of a right of residence), in paragraph (2)(b), after "regulation 27", insert "or on conducive grounds in accordance with regulation 27A".

(8) In regulation 26 (misuse of a right to reside), in paragraph (1)(a) omit "(as determined by reference to Council Directive 2004/38/EC and the EU Treaties)".

(9) After regulation 27 insert—

"**Decisions taken on conducive grounds**

27A.—(1) An EEA decision may be taken on the ground that the decision is conducive to the public good.

(2) But a decision may only be taken under this regulation in relation to a person as a result of conduct that took place at or after the time when this regulation comes into force.".

(10) In regulation 29 (person claiming right of admission), in paragraph (1)—

(a) at the end of sub-paragraph (a)(iii), insert "or";

(b) omit "or" from the end of sub-paragraph (a)(iv);

(c) omit sub-paragraph (a)(v).

(11) In regulation 32 (person subject to removal), in paragraph (5), after "public health" insert "in accordance with regulation 27 or on conducive grounds under regulation 27A".

(12) In Schedule 1 (considerations of public policy, public security and the fundamental interests of society etc.), for paragraph (1) substitute—

"(1) The United Kingdom enjoys considerable discretion, acting within the parameters set by the law, to define its own standards of public policy and public security, for purposes tailored to its individual context from time to time.".

(13) In Schedule 2 (appeals to the First-tier Tribunal), in paragraphs 1 and 2(4), for "the EU Treaties", substitute "retained EU law".

(14) In Schedule 7 (consequential modifications)—

(a) in paragraph 1, after sub-paragraph (3) insert—

"(4) In this paragraph, references to these Regulations are to these Regulations as last amended by the Immigration, Nationality and Asylum (EU Exit) Regulations 2019.";

(b) in the table at the end of the paragraph, in the second column (corresponding provision in the 2016 Regulations), for "24(7)" substitute "24(1) to (6)".

Amendment of the Short-term Holding Facility Rules 2018

44.—(1) The Short-term Holding Facility Rules 2018(**a**) are amended as follows.

(2) In rule 12 (reasons for detention and update of claim), in paragraph (3), in each of sub-paragraphs (d) and (e), for "European Union law" substitute "retained EU law".

(**a**) S.I. 2018/409.

(3) In rule 24 (correspondence), in paragraph (2)(a), omit "the Court of Justice of the European Union,".

Chapter 3

Revocation of subordinate legislation

Revocation of the Immigration (Assisting Unlawful Immigration) (Section 25 List of Schengen Acquis States) Order 2004

45. The Immigration (Assisting Unlawful Immigration) (Section 25 List of Schengen Acquis States) Order 2004(**a**) is revoked.

Revocation of the Accession (Immigration and Worker Authorisation) Regulations 2006

46. The Accession (Immigration and Worker Authorisation) Regulations 2006(**b**) are revoked.

Chapter 4

Revocation of retained direct EU legislation etc.

Revocation of retained direct EU legislation relating to immigration and nationality

47. Part 1 of Schedule 1 has effect.

Disapplication of inconsistent retained EU rights etc.

48.—(1) EU-derived rights, powers, liabilities, obligations, restrictions, remedies and procedures cease to be recognised and available in domestic law so far as they are inconsistent with provision made by this Part.

(2) In paragraph (1), "EU-derived rights, powers, liabilities, obligations, restrictions, remedies and procedures" means any rights, powers, liabilities, obligations, restrictions, remedies and procedures which continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018.

Chapter 5

EC Association Agreement with Turkey

Disapplication of rights etc.

49.—(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which fall within paragraph (3) cease to be recognised and available in domestic law so far as they are inconsistent with or otherwise capable of affecting a relevant decision taken in respect of a person.

(2) A decision is relevant for the purposes of paragraph (1) if—

(a) it is taken by reference to any conduct of the person that takes place at or after the time when this regulation comes into force; and

(b) it restricts or removes the ability of the person to enter or remain in the United Kingdom.

(3) A matter falls within this paragraph if it—

(a) continues to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018; and

(b) derives from the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963.

(**a**) S.I. 2004/2877.
(**b**) S.I. 2006/3317, to which there are amendments not relevant to these Regulations.

PART 3

Asylum

Chapter 1

Amendment of primary legislation

Amendment of the Nationality, Immigration and Asylum Act 2002

50.—(1) The Nationality, Immigration and Asylum Act 2002(**a**) is amended as follows.

(2) In section 94 (appeal from within United Kingdom: unfounded human rights or protection claim), in subsection (5D), omit "other".

(3) Omit section 94A (European Common List of Safe Countries of Origin).

Amendment of the Immigration Act 2014

51. In Schedule 9 to the Immigration Act 2014 (transitional and consequential provision), omit paragraph 39.

Chapter 2

Revocation of subordinate legislation

Revocation of the Displaced Persons (Temporary Protection) Regulations 2005

52. The Displaced Persons (Temporary Protection) Regulations 2005(**b**) are revoked.

Revocation of the Transfer for Determination of an Application for International Protection (Detention) (Significant Risk of Absconding Criteria) Regulations 2017

53. The Transfer for Determination of an Application for International Protection (Detention) (Significant Risk of Absconding Criteria) Regulations 2017(**c**) are revoked.

Chapter 3

Revocation of retained direct EU legislation

Revocation of retained direct EU legislation

54. Part 2 of Schedule 1 has effect.

Chapter 4

International Agreements

Revocation of rights etc.

55.—(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

(a) continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018, and

(b) are derived from one of the international agreements to which this regulation applies,

cease to be recognised and available in domestic law.

(**a**) 2002 c. 41. Section 94(5D) was inserted by S.I. 2007/3187. Section 94A was inserted by S.I. 2007/3187 and amended by paragraph 39 of Schedule 9 to the Immigration Act 2014 (c.22) and by S.I. 2011/1043.
(**b**) S.I. 2005/1379; amended by S.I. 2010/671, 2012/700, 2013/630.
(**c**) S.I. 2017/405.

(2) This regulation applies to—

(a) the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities – Dublin Convention (97/C 254/01);

(b) the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway – declarations;

(c) the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland;

(d) the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention;

(e) the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland;

(f) the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Community, and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland;

(g) the Protocol to the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway.

PART 4

Supplementary

Saving and transitional provisions

56. Schedule 2 (saving and transitional provisions) has effect.

Amendments consequential on revocation of the Displaced Persons (Temporary Protection) Regulations 2005

57. Schedule 3 (amendments consequential on revocation of the Displaced Persons (Temporary Protection) Regulations 2005) has effect.

Name
Minister of State
Home Office

Date

SCHEDULE 1

Regulations 47 and 54

Revocations of retained direct EU legislation

PART 1

Revocations related to immigration and nationality

1. The provisions of retained direct EU legislation specified in the first column of the table are revoked to the extent stated in the second column.

Retained direct EU legislation	*Extent of revocation*
Commission Decision of 8 June 1988 setting up a prior communication and consultation procedure on migration policies in relation to non-member countries (88/384/EEC)	The whole decision
Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas	The whole instrument
Council Decision of 26 May 1997 on the exchange of information concerning assistance for the voluntary repatriation of third-country nationals (97/340/JHA)	The whole decision
Council Decision of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (2000/365/EC)	In so far as it relates to Article 26 of the 1990 Schengen Convention
Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issues by Member States to persons holding travel documents not recognised by the Member State drawing up the form	The whole instrument
Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals	The whole instrument
Council Decision of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals (2004/191/EC)	The whole decision
Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network	The whole instrument
Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (2004/573/EC)	The whole decision
Council Decision of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain	In so far as it relates to Article 26 of the 1990 Schengen Convention

and Northern Ireland (2004/926/EC)	
Council Decision of 16 March 2005 establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services (2005/267/EC)	The whole decision
Commission Decision of 29 September 2005 on the format for the report on the activities of immigration liaison officers networks and on the situation in the host country in matters relating to illegal immigration (2005/687/EC)	The whole decision
Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals	The whole instrument
Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC)	The whole decision
Regulation (EU) No 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012	The whole instrument

2. In this Part "the 1990 Schengen Convention" means the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

PART 2

Revocations related to asylum

3. The following provisions of retained direct EU legislation are revoked—

(a) Council Decision of 4 March 1996 on an alert and emergency procedure for burden-sharing with regard to the admission and residence of displaced persons on a temporary basis (96/198/JHA);

(b) Council Decision of 26 June 1997 on monitoring the implementation of instruments adopted concerning asylum (97/420/JHA);

(c) Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national;

(d) Council Decision of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration (2006/688/EC);

(e) Commission Decision of 29 November 2007 implementing Decision No 573/2007/EC of the European Parliament and of the Council as regards the adoption of the strategic guidelines 2008 to 2013 (2007/815/EC);

(f) Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office;

(g) Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the

effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast);

(h) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast);

(i) Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 amending Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national;

(j) Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC.

SCHEDULE 2

Regulation 56

Saving and transitional provisions

PART 1

Interpretation

Meaning of "commencement day"

1. In this schedule "commencement day" means the time when these Regulations come into force.

PART 2

Saving and transitional provisions in relation to immigration and nationality

British Nationality Act 1981

2.—(1) The amendment made by regulation 7 does not affect the determination of an application made under section 5 of the British Nationality Act 1981 before commencement day which has not been determined before commencement day.

(2) For the purpose of determining such an application, section 5 applies as if the reference to a person who falls to be treated as a national of the United Kingdom for the purposes of the EU Treaties were a reference to a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.

Immigration and Asylum Act 1999

3.—(1) Notwithstanding the repeal of section 84(2)(c) of the Immigration and Asylum Act 1999 by regulation 11(6)(a), until the appointed day section 84(2)(c) of that Act (but not sub-paragraph (i) of section 84(2)(c)) continues to have effect in respect of registered European lawyers.

(2) In this paragraph—

"appointed day" means the day on which immigration rules (within the meaning of the Immigration Act 1971(**a**)) which expressly state that they have effect in connection with the borders and immigration system following the withdrawal of the United Kingdom from the European Union come into force;

"registered European lawyer" means a person who has registered with a designated professional body before commencement day in reliance on domestic legislation implementing Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained;

"designated professional body" has the meaning given in section 86 of the Immigration and Asylum Act 1999.

Nationality, Immigration and Asylum Act 2002

4.—(1) The amendments made by regulations 12(2) and 43 do not affect—

(a) the power in section 109 of the Nationality, Immigration and Asylum Act 2002 to make regulations which provide for, or make provision about, an appeal against an immigration decision taken before commencement day; or

(b) the operation of any regulations made under that section before commencement day in relation to such an appeal.

(2) The amendments made by regulation 12(3) and regulation 33 do not affect the operation of any regulations made under section 126 of the Nationality, Immigration and Asylum Act 2002 before commencement day in relation to an application for a document referred to in section 126(2)(e).

(3) In sub-paragraph (1)(a) "immigration decision" has the meaning given by section 109 of the Nationality, Immigration and Asylum Act 2002 as it had effect immediately before commencement day.

UK Borders Act 2007

5.—(1) The amendment made by regulation 17(3) does not apply in relation to a relevant immigration decision or a relevant nationality decision made before commencement day.

(2) In sub-paragraph (1) "relevant immigration decision" and "relevant nationality decision" have the meaning given in section 56A of the UK Borders Act 2007 as it had effect immediately before commencement day.

Detention Centre Rules 2001

6. The amendment made by regulation 26(3) does not apply in respect of any letter to the European Court of Justice relating to proceedings that were the subject of a reference to that Court made before commencement day.

(**a**) 1971 c. 77.

Short-term Holding Facility Rules 2018

7. The amendment made by regulation 44(3) does not apply in respect of any letter to the Court of Justice of the European Union relating to proceedings that were the subject of a reference to that Court made before commencement day.

PART 3

Saving provisions in relation to asylum

Regulation (EU) No 439/2010

8. Notwithstanding the revocation of Regulation (EU) No 439/2010 by regulation 54 and Part 2 of Schedule 1, Articles 21 (civil liability) and 22 (criminal liability) of that regulation continue to apply in respect of damage caused and criminal offences committed before commencement day.

Requests for taking charge and taking back made to the UK before commencement day

9.—(1) This paragraph applies where—

(a) a request is made to the UK before commencement day under Regulation (EU) No 604/2013 or Regulation (EC) No 1560/2003 to take charge or take back a person to whom, when the request is made, one of the Dublin Family Provisions applies; and

(b) a final decision in relation to the request is not taken before commencement day.

(2) Notwithstanding the revocation of Regulation (EC) No 1560/2003 by regulation 54 and Part 2 of Schedule 1, the provisions of that Regulation referred to in sub-paragraph (3) continue to have effect in relation to the request referred to in sub-paragraph (1), so far as is relevant.

(3) The provisions referred to in sub-paragraph (2) are—

(a) Article 3 (processing requests for taking charge);

(b) Article 4 (processing of requests for taking back);

(c) Article 5(1) (negative reply);

(d) Article 6 (positive reply);

(e) Article 11(2) and (3) (situations of dependency).

(4) Notwithstanding the revocation of Regulation (EU) No 604/2013 by regulation 54 and Part 2 of Schedule 1, the provisions of that Regulation referred to in sub-paragraph (5) continue to have effect in relation to the request referred to in sub-paragraph (1), so far as relevant, subject to the modifications set out in sub-paragraph (6).

(5) The provisions referred to in sub-paragraph (4) are—

(a) Article 2 (definitions);

(b) Article 6(1) (best interests of the child);

(c) Article 22(1) to (5) (replying to a take charge request);

(d) Article 25(1) (replying to a take back request).

(6) The modifications referred to in sub-paragraph (4) are—

(a) Article 6(1) is to be read as if the words after "a primary consideration" were omitted;

(b) Article 22 is to be read as if paragraph (3) were omitted, but not sub-paragraphs (a)(i) and (b);

(c) Article 25(1) is to be read as if, at the beginning, there were inserted "Except in a case where the take back request was not made within the periods laid down in paragraph 2 of Article 23 of this Regulation as it applied in the European Union immediately before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force,".

(7) The provisions referred to in sub-paragraphs (3) and (5), and any EU legislation to which those provisions refer, are to be construed for the purposes of this paragraph as if the United Kingdom continued to be a member State.

(8) For the purposes of this paragraph, "Dublin Family Provisions" means Article 8 (minors), 9 (family members who are beneficiaries of international protection), 10 (family members who are applicants for international protection), 11 (family procedure), 16 (dependent persons) or 17(2) (discretionary clauses) of Regulation (EU) No 604/2013.

Eurodac

10.—(1) Notwithstanding the revocation of the Eurodac Regulation by regulation 54 and Part 2 of Schedule 1 the provisions of the Eurodac Regulation referred to in sub-paragraph (2) continue to have effect in relation to data obtained before commencement day from Eurodac by a competent authority of the United Kingdom.

(2) The provisions referred to in sub-paragraph (1) are—

(a) Article 34(2), sub-paragraphs (a) to (d), (h) and (i) (data security);

(b) Article 35(1) (prohibition of transfers of data to third countries etc.);

(c) Article 36 (logging and documentation).

(3) The provisions referred to in paragraph (2) are to be construed as if the United Kingdom continued to be a Member State.

(4) For the purposes of paragraph (2), references to provisions in the Council Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are to be construed as references to relevant provisions in Part 3 of the Data Protection Act 2018(**a**).

(5) In this paragraph—

"Eurodac" means the system including a central fingerprint database for the European Union as described in Article 3 of the Eurodac Regulation;

"the Eurodac Regulation" means Regulation (EU) No 603/2013.

Data transmitted to the UK before commencement day

11.—(1) This paragraph applies in relation to information transmitted to the United Kingdom before commencement day under paragraph (1) of Article 34 of Regulation (EU) No 604/2013 (information sharing).

(2) Notwithstanding the revocation of Regulation (EU) No 604/2013 by regulation 54 and Part 2 of Schedule 1, the provisions of that Regulation referred to in sub-paragraph (3) continue to have effect in relation to the information, subject to the modification set out in sub-paragraph (4).

(3) The provisions referred to in sub-paragraph (2) are—

(a) Article 2 (definitions), so far as relevant to the provisions referred to in paragraph (b);

(b) Article 34(9) and (11).

(4) The modification referred to in sub-paragraph (2) is that Article 34(9) is to be read as if—

(a) in the second sub-paragraph, for "this Regulation or Directive 95/46/EC" there were substituted "this Regulation or the data protection legislation (within the meaning of section 3(9) of the Data Protection Act 2018(**b**)) as modified from time to time";

(b) in the third sub-paragraph, "or receiving" were omitted.

(5) The provisions referred to in sub-paragraph (3) are to be construed as if the United Kingdom continued to be a member State.

(**a**) 2018 c. 12.
(**b**) 2018 c. 12.

Data transmitted by the UK before commencement day

12.—(1) This paragraph applies in relation to information transmitted by the United Kingdom before commencement day under paragraph (1) of Article 34 of Regulation (EU) No 604/2013 (information sharing).

(2) Notwithstanding the revocation of Regulation (EU) No 604/2013 by regulation 54 and Part 2 of Schedule 1, Article 34(8) continues to have effect in relation to the information, subject to the modification set out in sub-paragraph (3).

(3) The modification referred to in sub-paragraph (2) is that Article 34(8) is to be read as if—

(a) the last sentence were omitted;

(b) the United Kingdom continued to be a member State.

SCHEDULE 3

Regulation 57

Amendments consequential on revocation of the Displaced Persons (Temporary Protection) Regulations 2005

In consequence of the revocation of the Displaced Persons (Temporary Protection) Regulations 2005 by regulation 52, the following provisions (which are inserted by those Regulations) are repealed—

(a) section 3A(7C) of the Protection from Eviction Act 1977(**a**);

(b) paragraph 3B of Schedule 2 to the Housing (Northern Ireland) Order 1983(**b**) and the italic heading before it;

(c) section 23A(5B) of the Rent (Scotland) Act 1984(**c**);

(d) paragraph 4B of Schedule 1 to the Housing Act 1985(**d**) and the italic heading before it;

(e) paragraph 12B of Schedule 1 to Housing Act 1988(**e**) and the italic heading before it;

(f) paragraph 11C of Schedule 4 to the Housing (Scotland) Act 1988(**f**) and the italic heading before it;

(g) paragraph 11 of Schedule 1 to the Housing (Scotland) Act 2001(**g**) and the italic heading before it.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by sections 8(1) of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d), (e), (f) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

They also make saving and transitional provision under paragraph 21 of Schedule 7 to the 2018 Act.

(**a**) 1977 c. 43. Section 3A was inserted by section 31 of the Housing Act 1988 (c. 50). Subsection (7C) was inserted by S.I. 2005/1379.

(**b**) S.I. 1118/1983 (N.I. 15). Paragraph 3B was inserted by S.I. 2005/1379.

(**c**) 1984 c. 58. Section 23A was inserted by section 40 of the Housing (Scotland) Act 1988. Subsection (5B) was inserted by S.I. 2005/1379.

(**d**) 1985 c. 68. The paragraph 4B of Schedule 1, which is repealed by this instrument, was inserted by S.I. 2005/1379. Section 32(6) of the Nationality, Immigration and Asylum Act 2002 also inserted a paragraph 4B in Schedule 1 which is unaffected by this instrument. The latter amendment is not yet in force.

(**e**) 1988 c. 50. Paragraph 12B of Schedule 1 was inserted by S.I. 2005/1379.

(**f**) 1988 c. 43. Paragraph 11C of Schedule 4 was inserted by S.I. 2005/1379.

(**g**) 2001 asp 10. Paragraph 11 of Schedule 1 was inserted by S.I. 2005/1379.

These Regulations make amendments to legislation in the field of immigration, nationality and asylum.

Part 2 makes amendments relating to immigration and nationality as follows:

Chapter 1 amends primary legislation.

Chapter 2 amends subordinate legislation.

Chapter 3 revokes subordinate legislation.

Chapter 4 and Part 1 of Schedule 1 revoke retained direct EU legislation. Chapter 4 also disapplies EU-derived rights, powers, liabilities, obligations, restrictions, remedies and procedures that are inconsistent with provision made in Part 1 of these Regulations.

Chapter 5 partially disapplies rights related to immigration derived from the EC association agreement with Turkey that would otherwise continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018. The effect of the amendment is to provide that those rights no longer apply in relation to the imposition of restrictions on residence rights (including deportation) by reference to conduct that takes place on or after the day on which these Regulations come into force.

Part 3 makes amendments relating to asylum as follows:

Chapter 1 amends primary legislation.

Chapter 2 revokes secondary legislation.

Chapter 3 and Part 2 of Schedule 1 revoke retained direct EU legislation.

Chapter 4 revokes those rights etc. derived from certain international agreements that would otherwise continue to be recognised and available in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018.

Part 4 (supplementary) introduces Schedule 2 which makes saving and transitional provision and Schedule 3 which makes amendments consequential on the revocation of the Displaced Persons (Temporary Protection) Regulations 2005.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

© Crown copyright 2019

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

UK201902061029 02/2019 19585

http://www.legislation.gov.uk/id/ukdsi/2019/9780111180617

ISBN 978-0-11-118061-7

9 780111 180617