DRAFT STATUTORY INSTRUMENTS

2019 No.

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

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(**1**) (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(**2**) 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(**3**);";

(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

(**1**) 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.

(**2**) 1955 c. 18. Section 1(5) was inserted by S.I. 2007/617.

(**3**) 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.

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).".

Amendment of the Immigration Act 1971

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

(2) In section 2 (statement of right of abode in United Kingdom)(**5**), 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)(**6**)—

(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(**7**) 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**) 1971 c. 77.

(**5**) 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.

(**6**) 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.

(**7**) 1981 c.61.

(4) In section 25C (forfeiture of vehicle, ship or aircraft)(**8**), 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(**9**) (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(**10**) (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 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(**11**) (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(**12**) 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(**13**) 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

(**8**) 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.

(**9**) 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.

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

(**11**) 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.

(**12**) 1988 c. 14. Section 7 was amended by S.I. 2011/1043.

(**13**) 1972 c. 68.

(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(**14**) (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(**15**) (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".

Amendment of the Immigration and Asylum Act 1999

11.—(1) The Immigration and Asylum Act 1999(**16**) is amended as follows.

(2) In section 10 (removal of persons unlawfully in the United Kingdom)(**17**)—

(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)(**18**), 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)(**19**), in subsection (5A)—

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

(**14**) 1988 c. 50. Ground 7B was inserted by section 41(2) of the Immigration Act 2016 (c. 19).
(**15**) 1997 c. 50. Schedule 8B was inserted by S.S.I. 2015/423.
(**16**) 1999 c. 33.
(**17**) 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.
(**18**) 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.
(**19**) 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.

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

(5) In section 82 (interpretation of Part V)(**20**), 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)(**21**), 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)(**22**), in subsection (8), in paragraph (a), for "an EEA State" substitute "Scotland or Northern Ireland".

(8) In section 93 (disclosure of information)(**23**), 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(**24**) is amended as follows.

(2) In section 109 (European Union and European Economic Area)(**25**), in subsection (1), for "any of the EU treaties" substitute "retained EU law".

(3) In section 126 (physical data: compulsory provision)(**26**)—

(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)—

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

(**21**) 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.

(**22**) 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.

(**23**) Section 93 was amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.

(**24**) 2002 c. 41.

(**25**) Section 109 was amended by S.I. 2011/1043.

(**26**) 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.

(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)(**27**), 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(**28**)), for "another" substitute "an".

Amendment of the Marriage (Northern Ireland) Order 2003

13. In article 2 of the Marriage (Northern Ireland) Order 2003(**29**) (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(**30**) (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(**31**) (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(**32**) (listed offences), in paragraph 11, in the words in brackets, after "member State" insert "or the United Kingdom".

(**27**) Paragraph 3 was amended by S.I. 2011/1043.
(**28**) 2016 c. 19. Paragraph 9 of Schedule 12 is not yet in force.
(**29**) S.I. 2003/413 (N.I. 3).
(**30**) 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.
(**31**) 2004 c. 33. Section 30A was inserted by paragraph 27 of Schedule 4 to the Immigration Act 2014.
(**32**) 2007 c. 27.

Amendment of the UK Borders Act 2007

17.—(1) The UK Borders Act 2007(**33**) 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)(**34**), 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—

"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(**35**) 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)(**36**), 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(**37**) is amended as follows.

(**33**) 2007 c. 30.
(**34**) Section 33 was amended by S.I. 2011/1043. There have been other amendments to this section which are not relevant to these Regulations.
(**35**) Laid before Parliament on 23rd May 1994 (HC 395), as amended. Appendix EU was laid before Parliament on 20th July 2018 (CM 9675).
(**36**) Section 56A was inserted by section 140 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
(**37**) 2008 c. 4. Sections 130 and 136 were amended by S.I. 2011/1043.

(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(**38**) 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(**39**) (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—

(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(**40**);";

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

Amendment of the Immigration Act 2014

21.—(1) The Immigration Act 2014(**41**) 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";

(**38**) 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.
(**39**) 2012 c. 10. There have been amendments to Schedule 1 which are not relevant to these Regulations.
(**40**) 1971 c. 77. There have been amendments to section 33(1) which are not relevant to these Regulations.
(**41**) 2014 c. 22.

(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—

"—

(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)(**42**)—

(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(**43**) (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(**44**) (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—

"(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(**45**)—

(**42**) Section 70A was inserted by section 85(1) and (2) of the Immigration Act 2016 (c. 19).
(**43**) 2015 c. 30.
(**44**) 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.
(**45**) 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

(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(**46**) (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.".

Amendment of the Detention Centre Rules 2001

26.—(1) The Detention Centre Rules 2001(**47**) 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,".

(**46**) 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.

(**47**) 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

Amendment of the Police Trainee Regulations (Northern Ireland) 2001

27. The existing provisions of regulation 2A of the Police Trainee Regulations (Northern Ireland) 2001(**48**) (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(**49**) (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(**50**) (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;

(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;".

(**48**) 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.

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

(**50**) 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.

Amendment of the British Nationality (General) Regulations 2003

30.—(1) The British Nationality (General) Regulations 2003(**51**) 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".

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

31. In regulation 1B of the Police Reserve Trainee Regulations (Northern Ireland) 2004(**52**) (appointment as a police reserve trainee)—

(**51**) 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.

(**52**) 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.

(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(**53**) (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(**54**) are amended as follows.

(2) In regulation 2 (interpretation)—

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

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

(**53**) 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.

(**54**) 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.

(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(**55**) 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";

(**55**) 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(**56**) (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(**57**) (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(**58**), 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(**59**) (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)—

(**56**) 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.

(**57**) 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.

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

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

(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.".

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(**60**) (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(**61**) (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—

(**60**) S.I. 2015/397.
(**61**) S.I. 2015/404.

(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 (Health Charge) Order 2015

41. In Schedule 2 to the Immigration (Health Charge) Order 2015(**62**), 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(**63**) (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".

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

(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";

(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(**64**) 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".

(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(**65**) is revoked.

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

46. The Accession (Immigration and Worker Authorisation) Regulations 2006(**66**) 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.

(**64**) S.I. 2018/409.
(**65**) S.I. 2004/2877.
(**66**) S.I. 2006/3317, to which there are amendments not relevant to these Regulations.

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.