Immigration Act 2014

2014 CHAPTER 22

An Act to make provision about immigration law; to limit, or otherwise make provision about, access to services, facilities and employment by reference to immigration status; to make provision about marriage and civil partnership involving certain foreign nationals; to make provision about the acquisition of citizenship by persons unable to acquire it because their fathers and mothers were not married to each other and provision about the removal of citizenship from persons whose conduct is seriously prejudicial to the United Kingdom's vital interests; and for connected purposes. [14th May 2014]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

REMOVAL AND OTHER POWERS

Removal

1 Removal of persons unlawfully in the United Kingdom

For section 10 of the Immigration and Asylum Act 1999, substitute—

"**10 Removal of persons unlawfully in the United Kingdom**

(1) A person may be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer if the person requires leave to enter or remain in the United Kingdom but does not have it.

(2) Where a person ("P") is liable to be or has been removed from the United Kingdom under subsection (1), a member of P's family who meets the

following three conditions may also be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer, provided that the Secretary of State or immigration officer has given the family member written notice of the intention to remove him or her.

(3) The first condition is that the family member is—

(a) P's partner,

(b) P's child, or a child living in the same household as P in circumstances where P has care of the child,

(c) in a case where P is a child, P's parent, or

(d) an adult dependent relative of P.

(4) The second condition is that—

(a) in a case where the family member has leave to enter or remain in the United Kingdom, that leave was granted on the basis of his or her family life with P;

(b) in a case where the family member does not have leave to enter or remain in the United Kingdom, in the opinion of the Secretary of State or immigration officer the family member—

(i) would not, on making an application for such leave, be granted leave in his or her own right, but

(ii) would be granted leave on the basis of his or her family life with P, if P had leave to enter or remain.

(5) The third condition is that the family member is neither a British citizen, nor is he or she entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.

(6) A notice given to a family member under subsection (2) invalidates any leave to enter or remain in the United Kingdom previously given to the family member.

(7) For the purposes of removing a person from the United Kingdom under subsection (1) or (2), the Secretary of State or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.

(8) But subsection (7) does not apply where a deportation order is in force against a person (and any directions for such a person's removal must be given under Schedule 3 to the 1971 Act).

(9) The following paragraphs of Schedule 2 to the 1971 Act apply in relation to directions under subsection (7) (and the persons subject to those directions) as they apply in relation to directions under paragraphs 8 to 10 of Schedule 2 (and the persons subject to those directions)—

(a) paragraph 11 (placing of person on board ship or aircraft);

(b) paragraph 16(2) to (4) (detention of person where reasonable grounds for suspecting removal directions may be given or pending removal in pursuance of directions);

(c) paragraph 17 (arrest of person liable to be detained and search of premises for person liable to arrest);

(d) paragraph 18 (supplementary provisions on detention);

(e) paragraph 18A (search of detained person);

(f) paragraph 18B (detention of unaccompanied children);
(g) paragraphs 19 and 20 (payment of expenses of custody etc);
(h) paragraph 21 (temporary admission to UK of person liable to detention);
(i) paragraphs 22 to 25 (bail);
(j) paragraphs 25A to 25E (searches etc).

(10) The Secretary of State may by regulations make further provision about—
(a) the time period during which a family member may be removed under subsection (2);
(b) the service of a notice under subsection (2).

(11) In this section "child" means a person who is under the age of 18."

2 Restriction on removal of children and their parents etc

After section 78 of the Nationality, Immigration and Asylum Act 2002, insert—

"78A Restriction on removal of children and their parents etc

(1) This section applies in a case where—
(a) a child is to be removed from or required to leave the United Kingdom, and
(b) an individual who—
(i) is a parent of the child or has care of the child, and
(ii) is living in a household in the United Kingdom with the child,
is also to be removed from or required to leave the United Kingdom (a "relevant parent or carer").

(2) During the period of 28 days beginning with the day on which the relevant appeal rights are exhausted—
(a) the child may not be removed from or required to leave the United Kingdom; and
(b) a relevant parent or carer may not be removed from or required to leave the United Kingdom if, as a result, no relevant parent or carer would remain in the United Kingdom.

(3) The relevant appeal rights are exhausted at the time when—
(a) neither the child, nor any relevant parent or carer, could bring an appeal under section 82 (ignoring any possibility of an appeal out of time with permission), and
(b) no appeal brought by the child, or by any relevant parent or carer, is pending within the meaning of section 104.

(4) Nothing in this section prevents any of the following during the period of 28 days mentioned in subsection (2)—
(a) the giving of a direction for the removal of a person from the United Kingdom,
(b) the making of a deportation order in respect of a person, or
(c) the taking of any other interim or preparatory action.

(5) In this section—

"child" means a person who is aged under 18;

references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts."

3 Independent Family Returns Panel

Before section 55 of the Borders, Citizenship and Immigration Act 2009, insert—

"**54A Independent Family Returns Panel**

(1) The Independent Family Returns Panel is established.

(2) The Secretary of State must consult the Independent Family Returns Panel—

(a) in each family returns case, on how best to safeguard and promote the welfare of the children of the family, and

(b) in each case where the Secretary of State proposes to detain a family in pre-departure accommodation, on the suitability of so doing, having particular regard to the need to safeguard and promote the welfare of the children of the family.

(3) A family returns case is a case where—

(a) a child who is living in the United Kingdom is to be removed from or required to leave the United Kingdom, and

(b) an individual who—

(i) is a parent of the child or has care of the child, and

(ii) is living in a household in the United Kingdom with the child,

is also to be removed from or required to leave the United Kingdom.

(4) The Secretary of State may by regulations make provision about—

(a) additional functions of the Independent Family Returns Panel,

(b) its status and constitution,

(c) the appointment of its members,

(d) the payment of remuneration and allowances to its members, and

(e) any other matters in connection with its establishment and operation.

(5) Regulations under this section must be made by statutory instrument.

(6) An instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"child" means a person who is under the age of 18;

"pre-departure accommodation" has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;

references to a person being removed from or required to leave the United Kingdom are to the person being removed or required to leave in accordance with a provision of the Immigration Acts."

Powers of immigration officers

4 Enforcement powers

Schedule 1 (enforcement powers) has effect.

Detention and bail

5 Restrictions on detention of unaccompanied children

(1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.

(2) In paragraph 16, after paragraph (2) insert—

"(2A) But the detention of an unaccompanied child under sub-paragraph (2) is subject to paragraph 18B."

(3) In paragraph 18, after sub-paragraph (1) insert—

"(1A) But the detention of an unaccompanied child under paragraph 16(2) is subject to paragraph 18B."

(4) After paragraph 18A (as inserted by paragraph 2 of Schedule 1) insert—

"18B (1) Where a person detained under paragraph 16(2) is an unaccompanied child, the only place where the child may be detained is a short-term holding facility, except where—

(a) the child is being transferred to or from a short-term holding facility, or

(b) sub-paragraph (3) of paragraph 18 applies.

(2) An unaccompanied child may be detained under paragraph 16(2) in a short-term holding facility for a maximum period of 24 hours, and only for so long as the following two conditions are met.

(3) The first condition is that—

(a) directions are in force that require the child to be removed from the short-term holding facility within the relevant 24 hour period, or

(b) a decision on whether or not to give directions is likely to result in such directions.

(4) The second condition is that the immigration officer under whose authority the child is being detained reasonably believes that the child will be removed from the short-term holding facility within the relevant 24 hour period in accordance with those directions.

(5) An unaccompanied child detained under paragraph 16(2) who has been removed from a short-term holding facility and detained elsewhere may be detained again in a short-term holding facility but only if, and for as long as, the relevant 24 hour period has not ended.

(6) An unaccompanied child who has been released following detention under paragraph 16(2) may be detained again in a short-term holding facility in accordance with this paragraph.

(7) In this paragraph—

"relevant 24 hour period", in relation to the detention of a child in a short-term holding facility, means the period of 24 hours starting when the child was detained (or, in a case falling within sub-paragraph (5), first detained) in a short-term holding facility;

"short-term holding facility" has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;

"unaccompanied child" means a person—

(a) who is under the age of 18, and

(b) who is not accompanied (whilst in detention) by his or her parent or another individual who has care of him or her."

6 Pre-departure accommodation for families

(1) Part 8 of the Immigration and Asylum Act 1999 (removal centres and detained persons) is amended as follows.

(2) In section 147 (interpretation)—

(a) after the definition of "custodial functions" insert—

""detained children" means detained persons who are under the age of 18;";

(b) after the definition of "escort monitor" insert—

""pre-departure accommodation" means a place used solely for the detention of detained children and their families for a period of—

(a) not more than 72 hours, or

(b) not more than seven days in cases where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975);";

(c) in the definition of "removal centre", after "facility," insert "pre-departure accommodation,";

(d) in the definition of "short-term holding facility", at the end insert—

"but which is not pre-departure accommodation."

(3) In section 155 (custodial functions and discipline), in subsection (2), at the end insert "and in pre-departure accommodation".

(4) After section 157 insert—

"**157A Pre-departure accommodation**

(1) The following provisions of this Part apply to pre-departure accommodation as they apply to removal centres—

(a) section 149 (contracting out of certain removal centres);

(b) section 150 (contracting out functions at directly managed removal centres);

(c) section 151 (intervention by Secretary of State).

(2) In the application of those provisions to pre-departure accommodation—

(a) references to a removal centre contract are to be read as a contract made under section 149(1) for the provision or running of pre-departure accommodation;

(b) references to a contracted out removal centre are to be read as references to pre-departure accommodation in relation to which a contract under section 149(1) is in force;

(c) references to a directly managed removal centre are to be read as references to pre-departure accommodation in relation to which there is no contract under section 149(1) in force;

(d) references to removal centre rules are to be read as references to rules made under subsection (4).

(3) The Secretary of State may by regulations extend to pre-departure accommodation any other provision made by or under this Part in relation to removal centres.

(4) The Secretary of State may make rules for the regulation and management of pre-departure accommodation."

7 Immigration bail: repeat applications and effect of removal directions

(1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.

(2) In paragraph 22 (bail) at the end insert—

"(4) A person must not be released on bail in accordance with this paragraph without the consent of the Secretary of State if—

(a) directions for the removal of the person from the United Kingdom are for the time being in force, and

(b) the directions require the person to be removed from the United Kingdom within the period of 14 days starting with the date of the decision on whether the person should be released on bail."

(3) In paragraph 25—

(a) the existing paragraph is re-numbered as sub-paragraph (1);

(b) in that sub-paragraph, for "may" substitute "must";

(c) after that sub-paragraph insert—

"(2) Tribunal Procedure Rules must secure that, where the First-tier Tribunal has decided not to release a person on bail under paragraph 22, the Tribunal is required to dismiss without a hearing any further application by the person for release on bail (whether under paragraph 22 or otherwise) that is made during the period of 28 days starting with the date of the Tribunal's decision, unless the person demonstrates to the Tribunal that there has been a material change in circumstances."

(4) In paragraph 29 (grant of bail pending appeal), in sub-paragraph (1), at the end insert "(and paragraph 22 does not apply)".

(5) In paragraph 30 (restrictions on grant of bail pending appeal), in sub-paragraph (1)—

(a) after "if" insert "— (a)";

(b) for "or the power to give such directions is for the time being exercisable" substitute "and

(b) the directions require the person to be removed from the United Kingdom within the period of 14 days starting with the date of the decision on whether the person should be released on bail."

(6) After paragraph 33, insert—

"33A (1) Tribunal Procedure Rules must make provision with respect to applications to the First-tier Tribunal under paragraphs 29 to 33 and matters arising out of such applications.

(2) Tribunal Procedure Rules must secure that, where the First-tier Tribunal has decided not to release a person on bail under paragraph 29, the Tribunal is required to dismiss without a hearing any further application by the person for release on bail (whether under paragraph 29 or otherwise) that is made during the period of 28 days starting with the date of the Tribunal's decision, unless the person demonstrates to the Tribunal that there has been a material change in circumstances."

Biometrics

8 Provision of biometric information with immigration applications

(1) Section 126 of the Nationality, Immigration and Asylum Act 2002 (power to require provision of physical data with certain immigration applications) is amended as follows.

(2) In subsection (2), after paragraph (c) insert—

"(d) a transit visa (within the meaning of section 41 of the Immigration and Asylum Act 1999), or

(e) a document issued as evidence that a person who is not a national of an EEA state or Switzerland is entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972."

(3) In subsection (4), after paragraph (f) insert—

"(fa) provide for biometric information to be recorded on any document issued as a result of the application in relation to which the information was provided;".

(4) In subsection (9), after the definition of "code" insert—

""document" includes a card or sticker and any other method of recording information (whether in writing or by the use of electronic or other technology or by a combination of methods),".

9 Identifying persons liable to detention

In paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (power to take steps for identifying persons detained under paragraph 16 of that Schedule) after "detained" insert "or liable to be detained".

10 Provision of biometric information with citizenship applications

(1) Section 41 of the British Nationality Act 1981 (regulations for giving effect to the Act) is amended as follows.

(2) In subsection (1), after paragraph (b) insert—

"(bza) requiring an application for registration or naturalisation of a person as a British citizen to be accompanied by biometric information, or enabling an authorised person to require an individual to whom such an application relates to provide biometric information;".

(3) After subsection (1) insert—

"(1ZA) In subsection (1)(bza) "authorised person" and "biometric information" have the same meaning as in section 126 of the Nationality, Immigration and Asylum Act 2002.

(1ZB) Section 126(4) to (7) of that Act applies to regulations under subsection (1)(bza) as it applies to regulations under section 126(1) of that Act.

(1ZC) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to biometric information provided in accordance with regulations under subsection (1)(bza) as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act.

(1ZD) But (despite section 8(5)(b) of that Act) regulations made by virtue of subsection (1ZC) may provide for photographs of a person who is registered or naturalised as a British citizen to be retained until the person is issued with a United Kingdom passport describing the person as a British citizen."

(4) In subsection (8)(b) for "(1)(bc)" substitute "(1)(bza), (bc)".

11 Biometric immigration documents

After section 7(2) of the UK Borders Act 2007 (effect of failure to comply with regulations about biometric immigration documents) insert—

"(2A) If the regulations require a biometric immigration document to be used in connection with an application or claim, they may require or permit the application or claim to be disregarded or refused if that requirement is not complied with."

12 Meaning of "biometric information"

(1) Section 15 of the UK Borders Act 2007 (biometric immigration documents: interpretation) is amended as follows.

(2) In subsection (1), omit paragraphs (b) and (c).

(3) After subsection (1) insert—

"(1A) For the purposes of section 5 "biometric information" means—

(a) information about a person's external physical characteristics (including in particular fingerprints and features of the iris), and

(b) any other information about a person's physical characteristics specified in an order made by the Secretary of State.

(1B) An order under subsection (1A)(b)—

(a) may specify only information that can be obtained or recorded by an external examination of a person;

(b) must not specify information about a person's DNA.

(1C) Section 6(6) applies to an order under subsection (1A)(b) as it applies to regulations under section 5(1)."

(4) Schedule 2 (which amends other enactments) has effect.

13 Safeguards for children

(1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows.

(2) In paragraph 4 (power to take biometric information on examination), after sub-paragraph (6) (as inserted by paragraph 1(3) of Schedule 2) insert—

"(7) A person ("P") who is under 16 may not be required to provide biometric information under sub-paragraph (5) unless—

(a) the decision to require P to provide the information has been confirmed by a chief immigration officer, and

(b) the information is provided in the presence of a person of full age who is—

(i) P's parent or guardian, or

(ii) a person who for the time being takes responsibility for P.

(8) The person mentioned in sub-paragraph (7)(b)(ii) may not be—

(a) a person who is entitled to require the provision of information under sub-paragraph (5) (an "authorised person"), or

(b) an officer of the Secretary of State who is not such a person.

(9) Sub-paragraph (7) does not prevent an authorised person requiring the provision of biometric information by a person the authorised person reasonably believes to be 16 or over."

(3) In paragraph 18 (power to take biometric information from detained persons), after sub-paragraph (2A) insert—

"(2B) Paragraph 4(7) to (9) applies to sub-paragraph (2) as it applies to paragraph 4(5)."

14 Use and retention of biometric information

(1) For section 8 of the UK Borders Act 2007 substitute—

"**8 Use and retention of biometric information**

(1) The Secretary of State must by regulations make provision about the use and retention by the Secretary of State of biometric information provided in accordance with regulations under section 5(1).

(2) The regulations must provide that biometric information may be retained only if the Secretary of State thinks that it is necessary to retain it for use in connection with—

(a) the exercise of a function by virtue of the Immigration Acts, or

(b) the exercise of a function in relation to nationality.

(3) The regulations may include provision permitting biometric information retained by virtue of subsection (2) also to be used—

(a) in connection with the prevention, investigation or prosecution of an offence,

(b) for a purpose which appears to the Secretary of State to be required in order to protect national security,

(c) in connection with identifying persons who have died, or are suffering from illness or injury,

(d) for the purpose of ascertaining whether a person has acted unlawfully, or has obtained or sought anything to which the person is not legally entitled, and

(e) for such other purposes (whether in accordance with functions under an enactment or otherwise) as the regulations may specify.

(4) The regulations must include provision about the destruction of biometric information.

(5) In particular the regulations must require the Secretary of State to take all reasonable steps to ensure that biometric information is destroyed if the Secretary of State—

(a) no longer thinks that it is necessary to retain the information for use as mentioned in subsection (2), or

(b) is satisfied that the person to whom the information relates is a British citizen, or a Commonwealth citizen who has a right of abode in the United Kingdom as a result of section 2(1)(b) of the Immigration Act 1971.

(6) The regulations must also—

(a) require that any requirement to destroy biometric information by virtue of the regulations also applies to copies of the information, and

(b) require the Secretary of State to take all reasonable steps to ensure—

(i) that data held in electronic form which relates to biometric information which has to be destroyed by virtue of the regulations is destroyed or erased, or

(ii) that access to such data is blocked.

(7) But a requirement to destroy biometric information or data is not to apply if and in so far as the information or data is retained in accordance with and for the purposes of another power.

(8) The regulations must include provision—

(a) entitling a person whose biometric information has to be destroyed by virtue of the regulations, on request, to a certificate issued by the Secretary of State to the effect that the Secretary of State has taken the steps required by virtue of subsection (6)(b), and

(b) requiring such a certificate to be issued within the period of 3 months beginning with the date on which the request for it is received by the Secretary of State.

(9) Section 6(6) applies to regulations under this section as it applies to regulations under section 5(1)."

(2) In the Immigration and Asylum Act 1999, after section 144 insert—

"**144A Use and retention of fingerprints etc.**

(1) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to—

(a) fingerprints taken by virtue of section 141, and

(b) biometric information taken by virtue of regulations under section 144,

as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act.

(2) Regulations made by virtue of subsection (1)(a) must require fingerprints taken from a person ("F") by virtue of section 141(7)(f) to be destroyed when fingerprints taken from the person whose dependant F is are destroyed.

(3) Regulations made by virtue of subsection (1)(b) must make equivalent provision in relation to biometric information taken by virtue of any provision of regulations under section 144 which is equivalent to section 141(7)(f)."

(3) In section 126 of the Nationality, Immigration and Asylum Act 2002 (power to require provision of physical data with certain immigration applications), after subsection (8) insert—

"(8A) Section 8 of the UK Borders Act 2007 (power to make regulations about use and retention of biometric information) applies to biometric information provided in accordance with regulations under subsection (1) as it applies to biometric information provided in accordance with regulations under section 5(1) of that Act."

PART 2

APPEALS ETC

15 Right of appeal to First-tier Tribunal

(1) Part 5 of the Nationality, Immigration and Asylum Act 2002 (immigration and asylum appeals) is amended as follows.

(2) For section 82 substitute—

"**82 Right of appeal to the Tribunal**

(1) A person ("P") may appeal to the Tribunal where—

(a) the Secretary of State has decided to refuse a protection claim made by P,

(b) the Secretary of State has decided to refuse a human rights claim made by P, or

(c) the Secretary of State has decided to revoke P's protection status.

(2) For the purposes of this Part—

(a) a "protection claim" is a claim made by a person ("P") that removal of P from the United Kingdom—

(i) would breach the United Kingdom's obligations under the Refugee Convention, or

(ii) would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(b) P's protection claim is refused if the Secretary of State makes one or more of the following decisions—

(i) that removal of P from the United Kingdom would not breach the United Kingdom's obligations under the Refugee Convention;

(ii) that removal of P from the United Kingdom would not breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(c) a person has "protection status" if the person has been granted leave to enter or remain in the United Kingdom as a refugee or as a person eligible for a grant of humanitarian protection;

(d) "humanitarian protection" is to be construed in accordance with the immigration rules;

(e) "refugee" has the same meaning as in the Refugee Convention.

(3) The right of appeal under subsection (1) is subject to the exceptions and limitations specified in this Part."

(3) Sections 83 and 83A (appeal rights in respect of asylum claims) are repealed.

(4) For section 84 substitute—

"**84 Grounds of appeal**

(1) An appeal under section 82(1)(a) (refusal of protection claim) must be brought on one or more of the following grounds—

(a) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations under the Refugee Convention;

(b) that removal of the appellant from the United Kingdom would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection;

(c) that removal of the appellant from the United Kingdom would be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).

(2) An appeal under section 82(1)(b) (refusal of human rights claim) must be brought on the ground that the decision is unlawful under section 6 of the Human Rights Act 1998.

(3) An appeal under section 82(1)(c) (revocation of protection status) must be brought on one or more of the following grounds—

(a) that the decision to revoke the appellant's protection status breaches the United Kingdom's obligations under the Refugee Convention;

(b) that the decision to revoke the appellant's protection status breaches the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection."

(5) In section 85 (matters to be considered), for subsection (5) substitute—

"(5) But the Tribunal must not consider a new matter unless the Secretary of State has given the Tribunal consent to do so.

(6) A matter is a "new matter" if—

(a) it constitutes a ground of appeal of a kind listed in section 84, and

(b) the Secretary of State has not previously considered the matter in the context of—

(i) the decision mentioned in section 82(1), or

(ii) a statement made by the appellant under section 120."

16 Report by Chief Inspector on administrative review

(1) Before the end of the period of 12 months beginning on the day on which section 15 comes into force, the Secretary of State must commission from the Chief Inspector a report that addresses the following matters—

(a) the effectiveness of administrative review in identifying case working errors;

(b) the effectiveness of administrative review in correcting case working errors;

(c) the independence of persons conducting administrative review (in terms of their separation from the original decision-maker).

(2) On completion of the report, the Chief Inspector must send it to the Secretary of State.

(3) The Secretary of State must lay before Parliament a copy of the report received under subsection (2).

(4) In this section—

"administrative review" means review conducted under the immigration rules;

"case working error" has the meaning given in the immigration rules;

the "Chief Inspector" means the Chief Inspector established under section 48 of the UK Borders Act 2007;

"immigration rules" has the same meaning as in the Immigration Act 1971.

17 Place from which appeal may be brought or continued

(1) Part 5 of the Nationality, Immigration and Asylum Act 2002 (immigration and asylum appeals) is amended as follows.

(2) For section 92 substitute—

"**92 Place from which an appeal may be brought or continued**

(1) This section applies to determine the place from which an appeal under section 82(1) may be brought or continued.

(2) In the case of an appeal under section 82(1)(a) (protection claim appeal), the appeal must be brought from outside the United Kingdom if—

(a) the claim to which the appeal relates has been certified under section 94(1) or (7) (claim clearly unfounded or removal to safe third country), or

(b) paragraph 5(3)(a), 10(3), 15(3) or 19(b) of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe third country) applies.

Otherwise, the appeal must be brought from within the United Kingdom.

(3) In the case of an appeal under section 82(1)(b) (human rights claim appeal) where the claim to which the appeal relates was made while the appellant was in the United Kingdom, the appeal must be brought from outside the United Kingdom if—

(a) the claim to which the appeal relates has been certified under section 94(1) or (7) (claim clearly unfounded or removal to safe third country) or section 94B (certification of human rights claims made by persons liable to deportation), or

(b) paragraph 5(3)(b) or (4), 10(4), 15(4) or 19(c) of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe third country) applies.

Otherwise, the appeal must be brought from within the United Kingdom.

(4) In the case of an appeal under section 82(1)(b) (human rights claim appeal) where the claim to which the appeal relates was made while the appellant was outside the United Kingdom, the appeal must be brought from outside the United Kingdom.

(5) In the case of an appeal under section 82(1)(c) (revocation of protection status) —

(a) the appeal must be brought from within the United Kingdom if the decision to which the appeal relates was made while the appellant was in the United Kingdom;

(b) the appeal must be brought from outside the United Kingdom if the decision to which the appeal relates was made while the appellant was outside the United Kingdom.

(6) If, after an appeal under section 82(1)(a) or (b) has been brought from within the United Kingdom, the Secretary of State certifies the claim to which the appeal relates under section 94(1) or (7) or section 94B, the appeal must be continued from outside the United Kingdom.

(7) Where a person brings or continues an appeal under section 82(1)(a) (refusal of protection claim) from outside the United Kingdom, for the purposes of considering whether the grounds of appeal are satisfied, the appeal is to be treated as if the person were not outside the United Kingdom.

(8) Where an appellant brings an appeal from within the United Kingdom but leaves the United Kingdom before the appeal is finally determined, the appeal is to be treated as abandoned unless the claim to which the appeal relates has been certified under section 94(1) or (7) or section 94B.”

(3) After section 94A, insert—

"**94B Appeal from within the United Kingdom: certification of human rights claims made by persons liable to deportation**

(1) This section applies where a human rights claim has been made by a person ("P") who is liable to deportation under—

(a) section 3(5)(a) of the Immigration Act 1971 (Secretary of State deeming deportation conducive to public good), or

(b) section 3(6) of that Act (court recommending deportation following conviction).

(2) The Secretary of State may certify the claim if the Secretary of State considers that, despite the appeals process not having been begun or not having been exhausted, removal of P to the country or territory to which P is proposed to be removed, pending the outcome of an appeal in relation to P's claim, would not be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention).

(3) The grounds upon which the Secretary of State may certify a claim under subsection (2) include (in particular) that P would not, before the appeals process is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which P is proposed to be removed."

18 Review of certain deportation decisions by Special Immigration Appeals Commission

In the Special Immigration Appeals Commission Act 1997, after section 2D insert—

"**2E Jurisdiction: review of certain deportation decisions**

(1) Subsection (2) applies in relation to a relevant deportation decision which has been certified under section 97 or 97A(1) of the Nationality, Immigration and Asylum Act 2002 (certification on grounds of national security etc).

(2) The person to whom the decision relates may apply to the Special Immigration Appeals Commission to set aside the decision.

(3) In determining whether the decision should be set aside, the Commission must apply the principles which would be applied in judicial review proceedings.

(4) If the Commission decides that the decision should be set aside, it may make any such order, or give any such relief, as may be made or given in judicial review proceedings.

(5) In this section "relevant deportation decision" means a decision of the Secretary of State about the deportation of a person from the United Kingdom, if and to the extent that—

(a) the decision is not subject to a right of appeal, or

(b) the decision (being subject to a right of appeal) gives rise to issues which may not be raised on such an appeal."

19 Article 8 of the ECHR: public interest considerations

After Part 5 of the Nationality, Immigration and Asylum Act 2002 insert—

"PART 5A

ARTICLE 8 OF THE ECHR: PUBLIC INTEREST CONSIDERATIONS

117A Application of this Part

(1) This Part applies where a court or tribunal is required to determine whether a decision made under the Immigration Acts—
  (a) breaches a person's right to respect for private and family life under Article 8, and
  (b) as a result would be unlawful under section 6 of the Human Rights Act 1998.

(2) In considering the public interest question, the court or tribunal must (in particular) have regard—
  (a) in all cases, to the considerations listed in section 117B, and
  (b) in cases concerning the deportation of foreign criminals, to the considerations listed in section 117C.

(3) In subsection (2), "the public interest question" means the question of whether an interference with a person's right to respect for private and family life is justified under Article 8(2).

117B Article 8: public interest considerations applicable in all cases

(1) The maintenance of effective immigration controls is in the public interest.

(2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—
  (a) are less of a burden on taxpayers, and
  (b) are better able to integrate into society.

(3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—
  (a) are not a burden on taxpayers, and
  (b) are better able to integrate into society.

(4) Little weight should be given to—
  (a) a private life, or
  (b) a relationship formed with a qualifying partner,

  that is established by a person at a time when the person is in the United Kingdom unlawfully.

(5) Little weight should be given to a private life established by a person at a time when the person's immigration status is precarious.

(6) In the case of a person who is not liable to deportation, the public interest does not require the person's removal where—
   (a) the person has a genuine and subsisting parental relationship with a qualifying child, and
   (b) it would not be reasonable to expect the child to leave the United Kingdom.

117C Article 8: additional considerations in cases involving foreign criminals

(1) The deportation of foreign criminals is in the public interest.

(2) The more serious the offence committed by a foreign criminal, the greater is the public interest in deportation of the criminal.

(3) In the case of a foreign criminal ("C") who has not been sentenced to a period of imprisonment of four years or more, the public interest requires C's deportation unless Exception 1 or Exception 2 applies.

(4) Exception 1 applies where—
   (a) C has been lawfully resident in the United Kingdom for most of C's life,
   (b) C is socially and culturally integrated in the United Kingdom, and
   (c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.

(5) Exception 2 applies where C has a genuine and subsisting relationship with a qualifying partner, or a genuine and subsisting parental relationship with a qualifying child, and the effect of C's deportation on the partner or child would be unduly harsh.

(6) In the case of a foreign criminal who has been sentenced to a period of imprisonment of at least four years, the public interest requires deportation unless there are very compelling circumstances, over and above those described in Exceptions 1 and 2.

(7) The considerations in subsections (1) to (6) are to be taken into account where a court or tribunal is considering a decision to deport a foreign criminal only to the extent that the reason for the decision was the offence or offences for which the criminal has been convicted.

117D Interpretation of this Part

(1) In this Part—

"Article 8" means Article 8 of the European Convention on Human Rights;

"qualifying child" means a person who is under the age of 18 and who—
   (a) is a British citizen, or
   (b) has lived in the United Kingdom for a continuous period of seven years or more;

"qualifying partner" means a partner who—

(a) is a British citizen, or

(b) who is settled in the United Kingdom (within the meaning of the Immigration Act 1971 — see section 33(2A) of that Act).

(2) In this Part, "foreign criminal" means a person—

(a) who is not a British citizen,

(b) who has been convicted in the United Kingdom of an offence, and

(c) who—

(i) has been sentenced to a period of imprisonment of at least 12 months,

(ii) has been convicted of an offence that has caused serious harm, or

(iii) is a persistent offender.

(3) For the purposes of subsection (2)(b), a person subject to an order under—

(a) section 5 of the Criminal Procedure (Insanity) Act 1964 (insanity etc),

(b) section 57 of the Criminal Procedure (Scotland) Act 1995 (insanity etc), or

(c) Article 50A of the Mental Health (Northern Ireland) Order 1986 (insanity etc),

has not been convicted of an offence.

(4) In this Part, references to a person who has been sentenced to a period of imprisonment of a certain length of time—

(a) do not include a person who has received a suspended sentence (unless a court subsequently orders that the sentence or any part of it (of whatever length) is to take effect);

(b) do not include a person who has been sentenced to a period of imprisonment of that length of time only by virtue of being sentenced to consecutive sentences amounting in aggregate to that length of time;

(c) include a person who is sentenced to detention, or ordered or directed to be detained, in an institution other than a prison (including, in particular, a hospital or an institution for young offenders) for that length of time; and

(d) include a person who is sentenced to imprisonment or detention, or ordered or directed to be detained, for an indeterminate period, provided that it may last for at least that length of time.

(5) If any question arises for the purposes of this Part as to whether a person is a British citizen, it is for the person asserting that fact to prove it."

PART 3

ACCESS TO SERVICES ETC

CHAPTER 1

RESIDENTIAL TENANCIES

Key interpretation

20 Residential tenancy agreement

(1) This section applies for the purposes of this Chapter.

(2) "Residential tenancy agreement" means a tenancy which—
- (a) grants a right of occupation of premises for residential use,
- (b) provides for payment of rent (whether or not a market rent), and
- (c) is not an excluded agreement.

(3) In subsection (2), "tenancy" includes—
- (a) any lease, licence, sub-lease or sub-tenancy, and
- (b) an agreement for any of those things,

and in this Chapter references to "landlord" and "tenant", and references to premises being "leased", are to be read accordingly.

(4) For the purposes of subsection (2)(a), an agreement grants a right of occupation of premises "for residential use" if, under the agreement, one or more adults have the right to occupy the premises as their only or main residence (whether or not the premises may also be used for other purposes).

(5) In subsection (2)(b) "rent" includes any sum paid in the nature of rent.

(6) In subsection (2)(c) "excluded agreement" means any agreement of a description for the time being specified in Schedule 3.

(7) The Secretary of State may by order amend Schedule 3 so as to—
- (a) add a new description of excluded agreement,
- (b) remove any description, or
- (c) amend any description.

21 Persons disqualified by immigration status or with limited right to rent

(1) For the purposes of this Chapter, a person ("P") is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement if—
- (a) P is not a relevant national, and
- (b) P does not have a right to rent in relation to the premises.

(2) P does not have a "right to rent" in relation to premises if—
- (a) P requires leave to enter or remain in the United Kingdom but does not have it, or

(b) P's leave to enter or remain in the United Kingdom is subject to a condition preventing P from occupying the premises.

(3) But P is to be treated as having a right to rent in relation to premises (in spite of subsection (2)) if the Secretary of State has granted P permission for the purposes of this Chapter to occupy premises under a residential tenancy agreement.

(4) References in this Chapter to a person with a "limited right to rent" are references to—

(a) a person who has been granted leave to enter or remain in the United Kingdom for a limited period, or

(b) a person who—

(i) is not a relevant national, and

(ii) is entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972.

(5) In this section "relevant national" means—

(a) a British citizen,

(b) a national of an EEA State other than the United Kingdom, or

(c) a national of Switzerland.

Penalty notices

22 Persons disqualified by immigration status not to be leased premises

(1) A landlord must not authorise an adult to occupy premises under a residential tenancy agreement if the adult is disqualified as a result of their immigration status.

(2) A landlord is to be taken to "authorise" an adult to occupy premises in the circumstances mentioned in subsection (1) if (and only if) there is a contravention of this section.

(3) There is a contravention of this section in either of the following cases.

(4) The first case is where a residential tenancy agreement is entered into that, at the time of entry, grants a right to occupy premises to—

(a) a tenant who is disqualified as a result of their immigration status,

(b) another adult named in the agreement who is disqualified as a result of their immigration status, or

(c) another adult not named in the agreement who is disqualified as a result of their immigration status (subject to subsection (6)).

(5) The second case is where—

(a) a residential tenancy agreement is entered into that grants a right to occupy premises on an adult with a limited right to rent,

(b) the adult later becomes a person disqualified as a result of their immigration status, and

(c) the adult continues to occupy the premises after becoming disqualified.

(6) There is a contravention as a result of subsection (4)(c) only if—

(a) reasonable enquiries were not made of the tenant before entering into the agreement as to the relevant occupiers, or

(b) reasonable enquiries were so made and it was, or should have been, apparent from the enquiries that the adult in question was likely to be a relevant occupier.

(7) Any term of a residential tenancy agreement that prohibits occupation of premises by a person disqualified by their immigration status is to be ignored for the purposes of determining whether there has been a contravention of this section if—

(a) the landlord knew when entering into the agreement that the term would be breached, or

(b) the prescribed requirements were not complied with before entering into the agreement.

(8) It does not matter for the purposes of this section whether or not—

(a) a right of occupation is exercisable on entering into an agreement or from a later date;

(b) a right of occupation is granted unconditionally or on satisfaction of a condition.

(9) A contravention of this section does not affect the validity or enforceability of any provision of a residential tenancy agreement by virtue of any rule of law relating to the validity or enforceability of contracts in circumstances involving illegality.

(10) In this Chapter—

"post-grant contravention" means a contravention in the second case mentioned in subsection (5);

"pre-grant contravention" means a contravention in the first case mentioned in subsection (4);

"relevant occupier", in relation to a residential tenancy agreement, means any adult who occupies premises under the agreement (whether or not named in the agreement).

23 Penalty notices: landlords

(1) If there is a contravention of section 22, the Secretary of State may give the responsible landlord a notice requiring the payment of a penalty.

(2) The amount of the penalty is such an amount as the Secretary of State considers appropriate, but the amount must not exceed £3,000.

(3) "Responsible landlord" means—

(a) in relation to a pre-grant contravention, the landlord who entered into the residential tenancy agreement;

(b) in relation to a post-grant contravention, the person who is the landlord under the agreement at the time of the contravention.

(4) But if there is a superior landlord in relation to the residential tenancy agreement who is responsible for the purposes of this section, the "responsible landlord" means that superior landlord (and references to the landlord in the following provisions of this Chapter are to be read accordingly).

(5) A superior landlord is "responsible for the purposes of this section" if arrangements in writing have been made in relation to the residential tenancy agreement between the landlord and the superior landlord under which the superior landlord accepts responsibility for—

(a) contraventions of section 22 generally, or
(b) contraventions of a particular description and the contravention in question is of that description.

(6) The Secretary of State may by order amend the amount for the time being specified in subsection (2).

24 Excuses available to landlords

(1) This section applies where a landlord is given a notice under section 23 requiring payment of a penalty.

(2) Where the notice is given for a pre-grant contravention, the landlord is excused from paying the penalty if the landlord shows that—
(a) the prescribed requirements were complied with before the residential tenancy agreement was entered into, or
(b) a person acting as the landlord's agent is responsible for the contravention (see section 25(2)).

(3) The prescribed requirements may be complied with for the purposes of subsection (2)(a) at any time before the residential tenancy agreement is entered into.

(4) But where compliance with the prescribed requirements discloses that a relevant occupier is a person with a limited right to rent, the landlord is excused under subsection (2)(a) only if the requirements are complied with in relation to that occupier within such period as may be prescribed.

(5) The excuse under subsection (2)(a) or (b) is not available if the landlord knew that entering into the agreement would contravene section 22.

(6) Where the notice is given for a post-grant contravention, the landlord is excused from paying the penalty if any of the following applies—
(a) the landlord has notified the Secretary of State of the contravention as soon as reasonably practicable;
(b) a person acting as the landlord's agent is responsible for the contravention;
(c) the eligibility period in relation to the limited right occupier whose occupation caused the contravention has not expired.

(7) For the purposes of subsection (6)(a), the landlord is to be taken to have notified the Secretary of State of the contravention "as soon as reasonably practicable" if the landlord—
(a) complied with the prescribed requirements in relation to each limited right occupier at the end of the eligibility period, and
(b) notified the Secretary of State of the contravention without delay on it first becoming apparent that the contravention had occurred.

(8) Notification under subsection (6)(a) must be in the prescribed form and manner.

(9) In this Chapter "limited right occupier", in relation to a residential tenancy agreement, means a relevant occupier who had a limited right to rent at the time when the occupier was first granted a right to occupy the premises under the agreement.

25 Penalty notices: agents

(1) Subsection (3) applies where—

(a) a landlord contravenes section 22, and

(b) a person acting as the landlord's agent ("the agent") is responsible for the contravention.

(2) For the purposes of this Chapter, an agent is responsible for a landlord's contravention of section 22 if (and only if)—

(a) the agent acts in the course of a business, and

(b) under arrangements made with the landlord in writing, the agent was under an obligation for the purposes of this Chapter to comply with the prescribed requirements on behalf of the landlord.

(3) The Secretary of State may give the agent a notice requiring the agent to pay a penalty.

(4) The amount of the penalty is such an amount as the Secretary of State considers appropriate, but the amount must not exceed £3,000.

(5) The Secretary of State may by order amend the amount for the time being specified in subsection (4).

26 Excuses available to agents

(1) This section applies where an agent is given a notice under section 25 requiring payment of a penalty.

(2) Where the notice is given for a pre-grant contravention, the agent is excused from paying the penalty if the agent shows that the prescribed requirements were complied with before the residential tenancy agreement was entered into.

(3) The prescribed requirements may be complied with for the purposes of subsection (2) at any time before the residential tenancy agreement is entered into.

(4) But where compliance with the prescribed requirements discloses that a relevant occupier is a person with a limited right to rent, the agent is excused under subsection (2) only if the requirements are complied with in relation to that occupier within such period as may be prescribed.

(5) The excuse under subsection (2) is not available if the agent—

(a) knew that the landlord would contravene section 22 by entering into the agreement,

(b) had sufficient opportunity to notify the landlord of that fact before the landlord entered into the agreement, but

(c) did not do so.

(6) Where the notice is given for a post-grant contravention, the agent is excused from paying the penalty if either of the following applies—

(a) the agent has notified the Secretary of State and the landlord of the contravention as soon as reasonably practicable;

(b) the eligibility period in relation to the limited right occupier whose occupation caused the contravention has not expired.

(7) For the purposes of subsection (6)(a), the agent is to be taken to have notified the Secretary of State and the landlord of the contravention "as soon as reasonably practicable" if the agent—

(a) complied with the prescribed requirements in relation to each limited right occupier at the end of the eligibility period, and

(b) notified the Secretary of State and the landlord of the contravention without delay on it first becoming apparent that the contravention had occurred.

(8) Notification under subsection (6)(a) must be in the prescribed form and manner.

27 Eligibility period

(1) An eligibility period in relation to a limited right occupier is established if the prescribed requirements are complied with in relation to the occupier.

(2) An eligibility period established under subsection (1) may be renewed (on one or more occasions) by complying with the prescribed requirements again.

(3) But an eligibility period in relation to a limited right occupier is only established or renewed under this section at any time if it reasonably appears from the information obtained in complying with the prescribed requirements at that time that the occupier is a person with a limited right to rent.

(4) The length of an eligibility period established or renewed under this section in relation to a limited right occupier is the longest of the following periods—

(a) the period of one year beginning with the time when the prescribed requirements were last complied with in relation to the occupier;

(b) so much of any leave period as remains at that time;

(c) so much of any validity period as remains at that time.

(5) In subsection (4)—

"leave period" means a period for which the limited right occupier was granted leave to enter or remain in the United Kingdom;

"validity period" means the period for which an immigration document issued to the limited right occupier by or on behalf of the Secretary of State is valid.

(6) In subsection (5) "immigration document" means a document of a prescribed description which—

(a) is issued as evidence that a person who is not a national of an EEA state or Switzerland is entitled to enter or remain in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972, or

(b) grants to the holder a right to enter or remain in the United Kingdom for such period as the document may authorise.

28 Penalty notices: general

(1) The Secretary of State may give a penalty notice—

(a) to a landlord under section 23 without having established whether the landlord is excused from paying the penalty under section 24;

(b) to an agent under section 25 without having established whether the agent is excused from paying the penalty under section 26.

(2) A penalty notice must—

(a) be in writing,

(b) state why the Secretary of State thinks the recipient is liable to the penalty,

(c) state the amount of the penalty,

(d) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,

(e) specify how a penalty must be paid,

(f) explain how the recipient may object to the penalty or make an appeal against it, and

(g) explain how the Secretary of State may enforce the penalty.

(3) A separate penalty notice may be given in respect of each adult disqualified by their immigration status in relation to whom there is a contravention of section 22.

(4) Where a penalty notice is given to two or more persons who jointly constitute the landlord or agent in relation to a residential tenancy agreement, those persons are jointly and severally liable for any sum payable to the Secretary of State as a penalty imposed by the notice.

(5) A penalty notice may not be given in respect of any adult if—

(a) the adult has ceased to occupy the premises concerned, and

(b) a period of 12 months or more has passed since the time when the adult last occupied the premises,

but this subsection is not to be taken as affecting the validity of a penalty notice given before the end of that period.

(6) Subsection (5) does not apply to a penalty notice given after the end of the 12 month period mentioned in that subsection if—

(a) it is a new penalty notice given by virtue of section 29(6)(b) on the determination of an objection to another penalty notice, and

(b) that other penalty notice was given before the end of the period.

Objections, appeals and enforcement

29 Objection

(1) The recipient of a penalty notice ("the recipient") may object on the ground that—

(a) the recipient is not liable to the imposition of the penalty,

(b) the recipient is excused by virtue of section 24 or 26, or

(c) the amount of the penalty is too high.

(2) An objection must be made by giving a notice of objection to the Secretary of State.

(3) A notice of objection must—

(a) be in writing,

(b) give the reasons for the objection,

(c) be given in the prescribed manner, and

(d) be given before the end of the prescribed period.

(4) In considering a notice of objection to a penalty the Secretary of State must have regard to the code of practice under section 32.

(5) On considering a notice of objection the Secretary of State may—
- (a) cancel the penalty,
- (b) reduce the penalty,
- (c) increase the penalty, or
- (d) determine to take no action.

(6) After reaching a decision as to how to proceed under subsection (5) the Secretary of State must—
- (a) notify the recipient of the decision (including the amount of any increased or reduced penalty) before the end of the prescribed period or such longer period as the Secretary of State may agree with the recipient, and
- (b) if the penalty is increased, issue a new penalty notice under section 23 or (as the case may be) section 25.

30 Appeals

(1) The recipient may appeal to the court on the ground that—
- (a) the recipient is not liable to the imposition of a penalty,
- (b) the recipient is excused payment as a result of section 24 or 26, or
- (c) the amount of the penalty is too high.

(2) The court may—
- (a) allow the appeal and cancel the penalty,
- (b) allow the appeal and reduce the penalty, or
- (c) dismiss the appeal.

(3) An appeal is to be a re-hearing of the Secretary of State's decision to impose a penalty and is to be determined having regard to—
- (a) the code of practice under section 32 that has effect at the time of the appeal, and
- (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware).

(4) Subsection (3) has effect despite any provisions of rules of court.

(5) An appeal may be brought only if the recipient has given a notice of objection under section 29 and the Secretary of State—
- (a) has determined the objection by issuing to the recipient the penalty notice (as a result of increasing the penalty under section 29(5)(c)),
- (b) has determined the objection by—
  - (i) reducing the penalty under section 29(5)(b), or
  - (ii) taking no action under section 29(5)(d), or
- (c) has not informed the recipient of a decision before the end of the period that applies for the purposes of section 29(6)(a).

(6) An appeal must be brought within the period of 28 days beginning with the relevant date.

(7) Where the appeal is brought under subsection (5)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 29(6)(b) as the date on which it is given.

(8) Where the appeal is brought under subsection (5)(b), the relevant date is the date specified in the notice informing the recipient of the decision for the purposes of section 29(6)(a) as the date on which it is given.

(9) Where the appeal is brought under subsection (5)(c), the relevant date is the date on which the period that applies for the purposes of section 29(6)(a) ends.

(10) In this section "the court" means—

(a) the county court, if the appeal relates to a residential tenancy agreement in relation to premises in England and Wales;

(b) the sheriff, if the appeal relates to a residential tenancy agreement in relation to premises in Scotland;

(c) a county court in Northern Ireland, if the appeal relates to a residential tenancy agreement in relation to premises in Northern Ireland.

31 Enforcement

(1) This section applies where a sum is payable to the Secretary of State as a penalty under this Chapter.

(2) In England and Wales the penalty is recoverable as if it were payable under an order of the county court in England and Wales.

(3) In Scotland the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(4) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.

(5) Where action is taken under this section for the recovery of a sum payable as a penalty under this Chapter, the penalty is—

(a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;

(b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.

(6) Money paid to the Secretary of State by way of a penalty must be paid into the Consolidated Fund.

Codes of practice

32 General matters

(1) The Secretary of State must issue a code of practice for the purposes of this Chapter.

(2) The code must specify factors that the Secretary of State will consider when determining the amount of a penalty imposed under this Chapter.

(3) The code may contain guidance about—

(a) factors that the Secretary of State will consider when determining whether—

(i) a residential tenancy agreement grants a right of occupation of premises for residential use, or

(ii) a person is occupying premises as an only or main residence;

(b) the reasonable enquiries that a landlord should make to determine the identity of relevant occupiers in relation to a residential tenancy agreement (so far as they are not named in the agreement);

(c) any other matters in connection with this Chapter that the Secretary of State considers appropriate.

(4) Guidance under subsection (3)(a) may in particular relate to the treatment for the purposes of this Chapter of arrangements that are made in connection with holiday lettings or lettings for purposes connected with business travel.

(5) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.

(6) The code (or revised code)—

(a) may not be issued unless a draft has been laid before Parliament, and

(b) comes into force in accordance with provision made by order of the Secretary of State.

33 Discrimination

(1) The Secretary of State must issue a code of practice specifying what a landlord or agent should or should not do to ensure that, while avoiding liability to pay a penalty under this Chapter, the landlord or agent also avoids contravening—

(a) the Equality Act 2010, so far as relating to race, or

(b) the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)).

(2) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.

(3) Before issuing the code (or a revised code) the Secretary of State must consult—

(a) the Commission for Equality and Human Rights,

(b) the Equality Commission for Northern Ireland, and

(c) such persons representing the interests of landlords and tenants as the Secretary of State considers appropriate.

(4) After consulting under subsection (3) the Secretary of State must—

(a) publish a draft code, and

(b) consider any representations made about the published draft.

(5) The code (or revised code)—

(a) may not be issued unless a draft has been laid before Parliament (prepared after considering representations under subsection (4)(b) and with or without modifications to reflect the representations), and

(b) comes into force in accordance with provision made by order of the Secretary of State.

(6) A breach of the code—

(a) does not make a person liable to civil or criminal proceedings, but

(b) may be taken into account by a court or tribunal.

General

34 Orders

(1) An order prescribing requirements for the purposes of this Chapter may, in particular, require a landlord or agent to—

(a) obtain a document of a prescribed description from relevant occupiers before or during the course of a residential tenancy agreement;

(b) obtain one document of each of a number of prescribed descriptions from relevant occupiers before or during the course of a residential tenancy agreement;

(c) take steps to verify, retain, copy or record the content of a document obtained in accordance with the order;

(d) take such other steps before or during the course of a residential tenancy agreement as the order may specify.

(2) If the draft of an instrument containing an order under or in connection with this Chapter would, apart from this subsection, be a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

35 Transitional provision

(1) This Chapter does not apply in relation to a residential tenancy agreement entered into before the commencement day.

(2) This Chapter does not apply in relation to a residential tenancy agreement entered into on or after the commencement day ("the renewed agreement") if—

(a) another residential tenancy agreement was entered into before the commencement day between the same parties ("the original agreement"), and

(b) the tenant has always had a right of occupation of the premises leased under the renewed agreement since entering into the original agreement.

(3) In this section "the commencement day" means such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or areas.

36 Crown application

This Chapter binds the Crown, except where the Crown is the responsible landlord for the purposes of section 23.

37 Interpretation

(1) In this Chapter—

"adult" means a person who has attained the age of 18;

"agreement" includes an agreement in any form (whether or not in writing);

"eligibility period", in relation to a limited right occupier, is to be read in accordance with section 27;

"limited right occupier" has the meaning given in section 24(9);

"occupy" means occupy as an only or main residence;

"penalty notice" means a penalty notice given under this Chapter;

"person with a limited right to rent" has the meaning given in section 21(4);

"post-grant contravention" has the meaning given in section 22(10);

"pre-grant contravention" has the meaning given in section 22(10);

"premises" includes land, buildings, moveable structures, vehicles and vessels;

"prescribed" means prescribed in an order made by the Secretary of State;

"recipient" means the recipient of a penalty notice;

"relevant occupier" has the meaning given in section 22(10);

"residential tenancy agreement" has the meaning given in section 20(2).

(2) For the purposes of this Chapter a residential tenancy agreement grants a person a right to occupy premises if—

(a) the agreement expressly grants that person the right (whether or not by naming the person), or

(b) the person is permitted to occupy the premises by virtue of an express grant given to another person,

and references to a person occupying premises under an agreement are to be read accordingly.

(3) A reference in this Chapter to the "prescribed requirements", in connection with compliance with the requirements at a particular time, is a reference only to such of the requirements as are capable of being complied with at that time.

(4) Where two or more persons jointly constitute the landlord in relation to a residential tenancy agreement—

(a) the references to the landlord in—

(i) section 22(7)(a),

(ii) section 24(5), (6)(a) and (7), and

(iii) section 26(6)(a) and (7)(b),

are to be taken as references to any of those persons;

(b) any other references to the landlord in this Chapter are to be taken as references to all of those persons.

(5) Where two or more persons jointly constitute the agent in relation to a residential tenancy agreement—

(a) the references to the agent in section 26(5), (6)(a) and (7) are to be taken as references to any of those persons;

(b) any other references to the agent in this Chapter are to be taken as references to all of those persons.

(6) The Secretary of State may by order prescribe cases in which—

(a) a residential tenancy agreement is, or is not, to be treated as being entered into for the purposes of this Chapter;

(b) a person is, or is not, to be treated as occupying premises as an only or main residence for the purposes of this Chapter.

(7) An order under subsection (6) prescribing a case may modify the application of this Chapter in relation to that case.

(8) The cases mentioned in subsection (6)(a) include, in particular, cases where—

(a) an option to renew an agreement is exercised;

(b) rights of occupation under an agreement are varied;

(c) an agreement is assigned (whether by the landlord or the tenant);

(d) a periodic tenancy arises at the end of a fixed term;

(e) an agreement grants a right of occupation on satisfaction of a condition;

(f) there is a change in the persons in occupation of the premises leased under an agreement or in the circumstances of any such person.

CHAPTER 2

OTHER SERVICES ETC

National Health Service

38 Immigration health charge

(1) The Secretary of State may by order provide for a charge to be imposed on—

(a) persons who apply for immigration permission, or

(b) any description of such persons.

(2) "Immigration permission" means—

(a) leave to enter or remain in the United Kingdom for a limited period,

(b) entry clearance which, by virtue of provision made under section 3A(3) of the Immigration Act 1971, has effect as leave to enter the United Kingdom for a limited period, or

(c) any other entry clearance which may be taken as evidence of a person's eligibility for entry into the United Kingdom for a limited period.

(3) An order under this section may in particular—

(a) impose a separate charge on a person in respect of each application made by that person;

(b) specify the amount of any charge (and different amounts may be specified for different purposes);

(c) make provision about when or how a charge may or must be paid to the Secretary of State;

(d) make provision about the consequences of a person failing to pay a charge (including provision for the person's application to be refused);

(e) provide for exemptions from a charge;

(f) provide for the reduction, waiver or refund of part or all of a charge (whether by conferring a discretion or otherwise).

(4) In specifying the amount of a charge under subsection (3)(b) the Secretary of State must (among other matters) have regard to the range of health services that are likely to be available free of charge to persons who have been given immigration permission.

(5) Sums paid by virtue of an order under this section must—

(a) be paid into the Consolidated Fund, or

(b) be applied in such other way as the order may specify.

(6) In this section—

"entry clearance" has the meaning given by section 33(1) of the Immigration Act 1971;

"health services" means services provided as part of the health service in England, Wales, Scotland and Northern Ireland;

and the references to applying for leave to enter or remain for a limited period include references to applying for a variation of leave to enter or remain which would result in leave to enter or remain for a limited period.

39 Related provision: charges for health services

(1) A reference in the NHS charging provisions to persons not ordinarily resident in Great Britain or persons not ordinarily resident in Northern Ireland includes (without prejudice to the generality of that reference) a reference to—

(a) persons who require leave to enter or remain in the United Kingdom but do not have it, and

(b) persons who have leave to enter or remain in the United Kingdom for a limited period.

(2) The "NHS charging provisions" are—

(a) section 175 of the National Health Service Act 2006 (charges in respect of persons not ordinarily resident in Great Britain);

(b) section 124 of the National Health Service (Wales) Act 2006 (charges in respect of persons not ordinarily resident in Great Britain);

(c) section 98 of the National Health Service (Scotland) Act 1978 (charges in respect of persons not ordinarily resident in Great Britain);

(d) Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) (provision of services to persons not ordinarily resident in Northern Ireland).

Bank accounts

40 Prohibition on opening current accounts for disqualified persons

(1) A bank or building society (B) must not open a current account for a person (P) who is within subsection (2) unless—

(a) B has carried out a status check which indicates that P is not a disqualified person, or

(b) at the time when the account is opened B is unable, because of circumstances that cannot reasonably be regarded as within its control, to carry out a status check in relation to P.

(2) A person is within this subsection if he or she—

(a) is in the United Kingdom, and

(b) requires leave to enter or remain in the United Kingdom but does not have it.

(3) For the purposes of this section—

(a) carrying out a "status check" in relation to P means checking with a specified anti-fraud organisation or a specified data-matching authority whether, according to information supplied to that organisation or authority by the Secretary of State, P is a disqualified person;

(b) a "disqualified person" is a person within subsection (2) for whom the Secretary of State considers that a current account should not be opened by a bank or building society;

(c) opening an account for P includes—

(i) opening a joint account for P and others;

(ii) opening an account in relation to which P is a signatory or is identified as a beneficiary;

(iii) adding P as an account holder or as a signatory or identified beneficiary in relation to an account.

(4) In subsection (3)(a)—

"anti-fraud organisation" has the same meaning as in section 68 of the Serious Crime Act 2007;

"data-matching authority" means a person or body conducting data matching exercises, within the meaning of Schedule 9 to the Local Audit and Accountability Act 2014, under or by virtue of that or any other Act;

"specified" means specified by an order made by the Secretary of State for the purposes of this section.

(5) Subsection (1)(b) does not apply where—

(a) a bank or building society is required to pay a reasonable fee for carrying out status checks, and

(b) its inability to carry out a status check is due to its failure to pay the fee.

(6) A bank or building society that refuses to open a current account for someone on the ground that he or she is a disqualified person must tell the person, if it may lawfully do so, that that is the reason for its refusal.

41 Regulation by Financial Conduct Authority

(1) The Treasury may make regulations to enable the Financial Conduct Authority to make arrangements for monitoring and enforcing compliance with the prohibition imposed on banks and building societies by section 40.

(2) The regulations may (in particular)—

(a) provide for the Financial Conduct Authority to be given free access to the information to which banks and building societies are given access when carrying out status checks under section 40;

(b) apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000, including in particular those mentioned in subsection (3), with or without modification.

(3) The provisions are—

(a) provisions about investigations, including powers of entry and search and criminal offences;

(b) provisions for the grant of an injunction (or, in Scotland, an interdict) in relation to a contravention or anticipated contravention;

(c) provisions giving the Financial Conduct Authority powers to impose disciplinary measures (including financial penalties) or to give directions;

(d) provisions giving a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or the Financial Conduct Authority powers to make subordinate legislation;

(e) provisions for the Financial Conduct Authority to charge fees.

42 "Bank" and "building society"

(1) In sections 40 and 41 "bank" means an authorised deposit-taker that has its head office or a branch in the United Kingdom.

This is subject to subsection (4).

(2) In subsection (1) "authorised deposit-taker" means—

(a) a person who under Part 4A of the Financial Services and Markets Act 2000 has permission to accept deposits;

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.

(3) A reference in subsection (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.

(4) "Bank" does not include—

(a) a building society;

(b) a person who is specified, or is within a class of persons specified, by an order under section 38 of the Financial Services and Markets Act 2000 (exemption orders);

(c) a credit union within the meaning given by section 31(1) of the Credit Unions Act 1979 or by Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;

(d) a friendly society within the meaning given by section 116 of the Friendly Societies Act 1992.

(5) In sections 40 and 41, and in subsection (4), "building society" means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986.

43 Power to amend

(1) The Treasury may by order amend any of sections 40 to 42 so as—

(a) to alter the categories of financial institution to which those sections apply;

(b) to alter the categories of account to which the prohibition in section 40(1) applies;

(c) to include provision defining a category of account specified in that section;

(d) to provide for the prohibition in section 40(1) not to apply in the case of an account to be operated (or an account that is operated) by or for a person or body of a specified description.

(2) An order under subsection (1) may amend a section so that it provides for a matter to be specified in a further order to be made by the Treasury.

(3) In subsection (1) "account" includes a financial product by means of which a payment may be made.

Work

44 Appeals against penalty notices

In section 17 of the Immigration, Asylum and Nationality Act 2006 (appeal), for subsections (4) and (5) substitute—

"(4A) An appeal may be brought only if the employer has given a notice of objection under section 16 and the Secretary of State—

(a) has determined the objection by issuing to the employer the penalty notice (as a result of increasing the penalty under section 16(4)(c)),

(b) has determined the objection by—

(i) reducing the penalty under section 16(4)(b), or

(ii) taking no action under section 16(4)(d), or

(c) has not informed the employer of a decision before the end of the period that applies for the purposes of section 16(5)(b).

(4B) An appeal must be brought within the period of 28 days beginning with the relevant date.

(4C) Where the appeal is brought under subsection (4A)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 16(5)(c) as the date on which it is given.

(4D) Where the appeal is brought under subsection (4A)(b), the relevant date is the date specified in the notice informing the employer of the decision for the purposes of section 16(5)(b) as the date on which it is given.

(4E) Where the appeal is brought under subsection (4A)(c), the relevant date is the date on which the period that applies for the purposes of section 16(5)(b) ends."

45 Recovery of sums payable under penalty notices

In section 18 of the Immigration, Asylum and Nationality Act 2006 (enforcement), for subsections (1) and (2) substitute—

"(1) This section applies where a sum is payable to the Secretary of State as a penalty under section 15.

(1A) In England and Wales the penalty is recoverable as if it were payable under an order of the county court.

(1B) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(1C) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.

(1D) Where action is taken under this section for the recovery of a sum payable as a penalty under section 15, the penalty is—

(a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;

(b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order."

Driving licences

46 Grant of driving licences: residence requirement

(1) In section 97 of the Road Traffic Act 1988 (grant of licences), in the opening words of subsection (1), after "who" insert "meets the relevant residence requirement (see section 97A) and".

(2) After that section insert—

"**97A Residence requirement**

(1) For the purposes of an application under section 97, a person meets the relevant residence requirement if, on the date the application is made—

(a) in the case of an application that is made by virtue of section 89(1)(ea) (application by holder of Community licence), the applicant is lawfully resident in the United Kingdom and—

(i) is also normally resident in the United Kingdom, or

(ii) has been attending a course of study in the United Kingdom during the period of six months ending on that date;

(b) in the case of an application that is made by virtue of section 89(1)(f) (application by holder of exchangeable licence), the applicant is normally and lawfully resident in Great Britain but has not been so resident for more than the prescribed period;

(c) in the case of an application that is made by virtue of section 97(2) (application for provisional licence), the applicant is lawfully resident in Great Britain and the Secretary of State is satisfied that the applicant will remain so for not less than 185 days; and

(d) in any other case, the applicant is normally and lawfully resident in Great Britain.

(2) For the purposes of subsection (1) a person is not lawfully resident in Great Britain or the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it."

(3) In Article 13 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (grant of licences), in the opening words of paragraph (1), after "who" insert "meets the relevant residence requirement (see Article 13A) and".

(4) After that Article insert—

"**13A Residence requirement**

(1) For the purposes of an application under Article 13, a person meets the relevant residence requirement if, on the date the application is made—

(a) in the case of an application that is made by virtue of Article 5(1)(ea) (application by holder of Community licence), the applicant is lawfully resident in the United Kingdom and—

(i) is also normally resident in the United Kingdom, or

(ii) has been attending a course of study in the United Kingdom during the period of six months ending on that date;

(b) in the case of an application that is made by virtue of Article 5(1)(f) (application by holder of exchangeable licence), the applicant is normally and lawfully resident in Northern Ireland but has not been so resident for more than the prescribed period;

(c) in the case of an application that is made by virtue of Article 13(2) (application for provisional licence), the applicant is lawfully resident in Northern Ireland and the Department is satisfied that the applicant will remain so for not less than 185 days; and

(d) in any other case, the applicant is normally and lawfully resident in Northern Ireland.

(2) For the purposes of paragraph (1) a person is not lawfully resident in Northern Ireland or the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it."

47 Revocation of driving licences on grounds of immigration status

(1) In section 99 of the Road Traffic Act 1988 (duration of licences)—

(a) after subsection (3) insert—

"(3ZA) Where it appears to the Secretary of State that a licence holder is not lawfully resident in the United Kingdom, the Secretary of State may serve notice in writing on that person revoking the licence and requiring the person to surrender the licence and its counterpart forthwith to the Secretary of State, and it is the duty of that person to comply with the requirement.

(3ZB) For the purposes of subsection (3ZA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.";

(b) in subsection (5), after "(3)" insert ", (3ZA)";

(c) in subsection (7ZZA)—

(i) after "(3)" insert ", (3ZA)";

(ii) after "subsections and" insert ", except in the case of a licence and counterpart surrendered in pursuance of subsection (3ZA),".

(2) In section 100 of that Act (appeals)—

(a) in subsection (1)(c), after "99(3)" insert ", (3ZA)";

(b) at the end insert—

"(4) In any proceedings under this section about the revocation of a licence in pursuance of section 99(3ZA) (revocation on grounds of immigration status), the court or sheriff is not entitled to entertain any question as to whether—

(a) the appellant should be, or should have been, granted leave to enter or remain in the United Kingdom, or

(b) the appellant has, after the date that the Secretary of State served notice under section 99(3ZA), been granted leave to enter or remain in the United Kingdom."

(3) In Article 15 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (duration of licences)—

(a) after paragraph (5) insert—

"(5ZA) Where it appears to the Department that a licence holder is not lawfully resident in the United Kingdom, the Department may serve notice in writing on that person revoking the licence and requiring the person to surrender the licence and its counterpart forthwith to the Department, and it is the duty of that person to comply with the requirement.

(5ZB) For the purposes of paragraph (5ZA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.";

(b) in paragraph (7), after "(5)" insert ", (5ZA)".

(4) In Article 16 of that Order (appeals)—

(a) in paragraph (1)(c), after "15(5)" insert ", (5ZA)";

(b) at the end insert—

"(4) In any proceedings under this Article about the revocation of a licence in pursuance of Article 15(5ZA) (revocation on grounds of immigration status), the court is not entitled to entertain any question as to whether—

(a) the appellant should be, or should have been, granted leave to enter or remain in the United Kingdom, or

(b) the appellant has, after the date that the Department served notice under Article 15(5ZA), been granted leave to enter or remain in the United Kingdom."

PART 4

MARRIAGE AND CIVIL PARTNERSHIP

CHAPTER 1

REFERRAL AND INVESTIGATION OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS

Investigation

48 Decision whether to investigate

(1) This section applies if—
- (a) a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the Marriage Act 1949, or
- (b) a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004.

(2) The Secretary of State must decide whether to investigate whether the proposed marriage or civil partnership is a sham.

(3) The Secretary of State may not decide to conduct such an investigation unless conditions A and B are met.

(4) Condition A is met if the Secretary of State is satisfied that—
- (a) only one of the parties to the proposed marriage or civil partnership is an exempt person, or
- (b) neither of the parties are exempt persons.

(5) Condition B is met if the Secretary of State has reasonable grounds for suspecting that the proposed marriage or civil partnership is a sham.

(6) In making the decision whether to investigate, regard must be had to any guidance published by the Secretary of State for this purpose.

(7) In the case of a proposed marriage, the Secretary of State must give notice of the decision made under this section to—
- (a) both of the parties to the proposed marriage, and
- (b) the superintendent registrar who referred the proposed marriage to the Secretary of State.

(8) In the case of a proposed civil partnership, the Secretary of State must give notice of the decision made under this section to—
- (a) both of the parties to the proposed civil partnership,
- (b) the registration authority who referred the proposed civil partnership to the Secretary of State, and
- (c) if different, the registration authority responsible for issuing the civil partnership schedule under section 14(1) of the Civil Partnership Act 2004 in relation to the proposed civil partnership.

(9) The Secretary of State must make the decision, and give the notice, required by this section within the relevant statutory period.

49 Exempt persons

(1) A person who is a party to a proposed marriage or civil partnership is an exempt person if the person—
  (a) is a relevant national;
  (b) has the appropriate immigration status; or
  (c) holds a relevant visa in respect of the proposed marriage or civil partnership.

(2) A person has the appropriate immigration status if the person—
  (a) has a right of permanent residence in the United Kingdom by virtue of an enforceable EU right or of any provision made under section 2(2) of the European Communities Act 1972;
  (b) is exempt from immigration control; or
  (c) is settled in the United Kingdom (within the meaning of the Immigration Act 1971 — see section 33(2A) of that Act).

(3) The question of whether a person is exempt from immigration control is to be determined in accordance with regulations made for this purpose by the Secretary of State.

(4) A person holds a relevant visa if the person holds a visa or other authorisation that is of a kind specified for this purpose in regulations made by the Secretary of State.

(5) The Secretary of State may not specify a visa or other authorisation under subsection (4) unless the Secretary of State considers that the purpose of issuing that kind of visa or authorisation is, or includes, enabling a person to enter or remain in the United Kingdom to marry or form a civil partnership.

50 Conduct of investigation

(1) An investigation must be conducted in accordance with any regulations made by the Secretary of State for this purpose.

(2) In conducting an investigation, regard must also be had to any guidance published by the Secretary of State for this purpose.

(3) A relevant party must comply with a requirement specified in regulations made under section 51(4) if—
  (a) the section 48 notice given to the relevant party states that he or she must do so, or
  (b) the Secretary of State subsequently notifies the relevant party (orally or in writing) that he or she must do so;

  and the relevant party must comply with that requirement in the manner stated in the section 48 notice or in the Secretary of State's notification (if such a manner is stated there).

(4) As part of an investigation, the Secretary of State must decide whether or not each of the relevant parties has complied with the investigation (the "compliance question").

(5) The compliance question must be decided in accordance with any regulations made by the Secretary of State for this purpose.

(6) In deciding the compliance question, regard must also be had to any guidance published by the Secretary of State for this purpose.

(7) Within the 70 day period, the Secretary of State must—

(a) decide the compliance question; and

(b) give notice of that decision to the persons to whom the Secretary of State gave the section 48 notice relating to the proposed marriage or civil partnership.

(8) If the Secretary of State's decision is that one or both of the relevant parties have not complied with the investigation, the notice under subsection (7) must include a statement of the Secretary of State's reasons for reaching that decision.

(9) Regulations made under this section may, in particular, make provision about—

(a) the circumstances in which a relevant party is to be taken to have failed to comply with a relevant requirement;

(b) the consequences of a relevant party's failure to comply with a relevant requirement.

(10) The provision that may be made under subsection (9)(b) includes provision for the compliance question to be decided (in whole or in part) by reference to a relevant party's compliance or non-compliance with one or more relevant requirements.

(11) In this section—

"70 day period" means the period of 70 days beginning with the day on which the relevant statutory period begins;

"investigation" means an investigation, conducted following a decision by the Secretary of State under section 48, whether a proposed marriage or civil partnership is a sham;

"relevant party" means a person who is a party to a proposed marriage or civil partnership that is the subject of an investigation;

"relevant requirement" means any requirement imposed by law, including a requirement imposed by or in accordance with—

(a) subsection (3);

(b) section 27E, 28B or 28C of the Marriage Act 1949;

(c) regulations under section 28D of that Act;

(d) section 8A, or any of sections 9 to 9B, of the Civil Partnership Act 2004.

51 Investigations: supplementary

(1) A section 48 notice which states that the Secretary of State has decided to investigate whether a proposed marriage or civil partnership is a sham must include—

(a) notice that the compliance question must be decided within the period of 70 days mentioned in section 50(7);

(b) notice of the date on which that period will end;

(c) notice that a relevant party may be required to comply with one or more requirements imposed by the Secretary of State subsequently in accordance with section 50(3); and

(d) prescribed information about the investigation.

(2) The section 48 notice may also include such other information as the Secretary of State considers appropriate.

(3) For the purposes of subsection (1)(d) "prescribed information" means information prescribed by the Secretary of State by regulations; and the information that may be prescribed includes information about—
   (a) the conduct of the investigation;
   (b) requirements with which the relevant parties must comply in relation to the investigation;
   (c) the consequence of a failure to comply with those or any other requirements;
   (d) the possible outcomes of the investigation;
   (e) the consequences of those outcomes.

(4) The Secretary of State may, by regulations, specify requirements relating to the conduct of investigations which may be imposed on a relevant party by the section 48 notice or by the Secretary of State subsequently in accordance with section 50(3).

(5) Regulations made under subsection (4) may, in particular, specify any of the following requirements—
   (a) a requirement to make contact with a particular person or description of persons in a particular way (including by telephoning a particular number) within a particular time period;
   (b) a requirement to be present at a particular place at a particular time;
   (c) a requirement to be visited at home;
   (d) a requirement to be interviewed;
   (e) a requirement to provide information (whether orally or in writing);
   (f) a requirement to provide photographs;
   (g) a requirement to provide evidence.

(6) The provisions of this Part, and any investigation or other steps taken under those provisions (including the decision of the compliance question), do not limit the powers of the Secretary of State in relation to marriages or civil partnerships that are, or are suspected to be, a sham (including any powers to investigate such marriages or civil partnerships).

(7) In this section "investigation", "relevant party" and "compliance question" have the same meanings as in section 50.

Referral

52 Referral of proposed marriages and civil partnerships in England and Wales

Schedule 4 (referral of proposed marriages and civil partnerships in England and Wales) has effect.

Scotland and Northern Ireland

53 Extension of scheme to Scotland and Northern Ireland

(1) The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate for extending the referral and investigation scheme to any of the following—
   (a) proposed marriages under the law of Scotland;

(b) proposed civil partnerships under the law of Scotland;
(c) proposed marriages under the law of Northern Ireland;
(d) proposed civil partnerships under the law of Northern Ireland.

(2) An order under this section may—
(a) make provision having a similar effect to the provision made by section 58, Schedule 4, or Parts 1, 2 and 4 of Schedule 6;
(b) confer functions on any person;
(c) amend, repeal or revoke any enactment (including an enactment contained in this Act).

(3) The power under subsection (2)(b) to confer functions includes power to impose a duty of referral on persons exercising functions in Scotland or Northern Ireland in relation to marriage or civil partnership.

(4) But an order under this section may not impose that or any other duty, or otherwise confer functions, on—
(a) the Scottish Ministers,
(b) the First Minister and deputy First Minister in Northern Ireland,
(c) a Northern Ireland Minister, or
(d) a Northern Ireland department.

(5) In this section—

"duty of referral" means a duty to refer a proposed marriage or proposed civil partnership to the Secretary of State in a case where—
(a) one of the parties is not an exempt person, or
(b) both of the parties are not exempt persons;

"enactment" includes—
(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
(c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;

"referral and investigation scheme" means the provision made by sections 48 to 51.

54 Supplementary provision

(1) This section applies if the referral and investigation scheme is extended by an order under section 53 (an "extension order").

(2) The Secretary of State may make administrative regulations in connection with the application of the scheme—
(a) to proposed marriages or civil partnerships under the law of Scotland (insofar as the scheme is extended to them), and
(b) to proposed marriages or civil partnerships under the law of Northern Ireland (insofar as the scheme is extended to them).

(3) For that purpose "administrative regulations" means regulations of any kind set out in Schedule 5 (sham marriage and civil partnership: administrative regulations).

(4) The Secretary of State may by order make provision about—
  (a) the information that must or may be given, or
  (b) the matters in respect of which evidence must or may be given,

in relation to proposed marriages or civil partnerships under the law of Scotland or Northern Ireland in cases where one or both of the parties is not a relevant national.

(5) An order under subsection (4) may amend, repeal or revoke any enactment (including an enactment contained in this Act or in provision made by an extension order or an order under subsection (4)).

(6) If an extension order makes provision ("information disclosure provision") having similar effect to the provision made by paragraph 2 of Schedule 6 about the disclosure of information for immigration purposes, the Secretary of State may by order specify other immigration purposes (in addition to those specified in provision made by an extension order or in any provision made under this subsection) for which information may be disclosed under the information disclosure provision.

(7) The Secretary of State must consult—
  (a) the Registrar General for Scotland before making administrative regulations, or an order under subsection (4), in relation to proposed marriages or civil partnerships under the law of Scotland;
  (b) the Registrar General for Northern Ireland before making administrative regulations, or an order under subsection (4), in relation to proposed marriages or civil partnerships under the law of Northern Ireland.

(8) Expressions used in this section or Schedule 5 that are also used in section 53 have the same meanings in this section or Schedule 5 as in section 53.

CHAPTER 2

SHAM MARRIAGE AND CIVIL PARTNERSHIP

55 Meaning of "sham marriage" and "sham civil partnership"

(1) The Immigration and Asylum Act 1999 is amended in accordance with this section.

(2) In section 24 (duty to report suspicious marriages), for subsection (5) substitute—

"(5) A marriage (whether or not it is void) is a "sham marriage" if—
  (a) either, or both, of the parties to the marriage is not a relevant national,
  (b) there is no genuine relationship between the parties to the marriage, and
  (c) either, or both, of the parties to the marriage enter into the marriage for one or more of these purposes—
    (i) avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules;
    (ii) enabling a party to the marriage to obtain a right conferred by that law or those rules to reside in the United Kingdom.

(6) In subsection (5)—

"relevant national" means—

(a) a British citizen,
(b) a national of an EEA State other than the United Kingdom, or
(c) a national of Switzerland;

"United Kingdom immigration law" includes any subordinate legislation concerning the right of relevant nationals to move between and reside in member States.".

(3) In section 24A (duty to report suspicious civil partnerships), for subsection (5) substitute—

"(5) A civil partnership (whether or not it is void) is a "sham civil partnership" if—
(a) either, or both, of the parties to the civil partnership is not a relevant national,
(b) there is no genuine relationship between the parties to the civil partnership, and
(c) either, or both, of the parties to the civil partnership enter into the civil partnership for one or more of these purposes—
(i) avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules;
(ii) enabling a party to the civil partnership to obtain a right conferred by that law or those rules to reside in the United Kingdom.

(5A) In subsection (5)—

"relevant national" means—
(a) a British citizen,
(b) a national of an EEA State other than the United Kingdom, or
(c) a national of Switzerland;

"United Kingdom immigration law" includes any subordinate legislation concerning the right of relevant nationals to move between and reside in member States.".

56 Duty to report suspicious marriages and civil partnerships

(1) The Immigration and Asylum Act 1999 is amended in accordance with this section.

(2) In section 24 (duty to report suspicious marriages), in subsection (1)—
(a) after paragraph (a) insert—
"(aa) a superintendent registrar, or registrar of births, deaths and marriages, who receives information in advance of a person giving such a notice,";
(b) at the end of paragraph (c), omit "or";
(c) after paragraph (c) insert—
"(ca) a district registrar who receives information in advance of a person submitting such a notice or certificate,";
(d) after paragraph (d) insert "or
(da) a registrar or deputy registrar who receives information in advance of a person giving such a notice,".

(3) In section 24A (duty to report suspicious civil partnerships), in subsection (1)—
(a) after paragraph (a) insert—

"(aa) a registration authority that receives information in advance of a person giving such a notice,";

(b) at the end of paragraph (c), omit "or";

(c) after paragraph (c) insert—

"(ca) a district registrar who receives information in advance of a person giving such a notice,";

(d) after paragraph (d) insert "or

(da) a registrar who receives information in advance of a person giving such a notice,".

CHAPTER 3

OTHER PROVISIONS

Persons not relevant nationals etc: marriage on superintendent registrar's certificates

57 Solemnization of marriage according to rites of Church of England

(1) The Marriage Act 1949 is amended in accordance with this section.

(2) In section 5 (methods of authorising marriages)—

(a) at the beginning insert—

"(1)";

(b) in the words after paragraph (d), for "except that paragraph (a)" substitute—

"(2) Subsection (1)(a)";

(c) at the end insert—

"(3) In a case where one or both of the persons whose marriage is to be solemnized is not a relevant national—

(a) subsection (1)(a) shall not apply unless the banns are published in accordance with section 14 (whether or not the banns are also published otherwise);

(b) subsection (1)(c) shall not apply.".

(3) In section 8 (notice to clergy before publication of banns)—

(a) at the beginning insert—

"(1)";

(b) for "delivered to him a notice" substitute "delivered to him—

(a) a notice";

(c) at the end insert ", and

(b) specified evidence that both of the persons are relevant nationals.

(2) In this section "specified evidence" means evidence that is in accordance with regulations made under section 28G.".

(4) In section 16 (provisions as to common licences), before subsection (2) insert—

"(1C) A common licence shall not be granted unless the persons to be married deliver to the person granting the licence specified evidence that both of the persons are relevant nationals.

(1D) For that purpose "specified evidence" means evidence that is in accordance with regulations made under section 28G.".

58 Requirement as to giving of notice of marriage or civil partnership

(1) Section 19 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (procedure for marriage in England and Wales) is amended in accordance with subsections (2) and (3).

(2) For subsection (1) substitute—

"(1) This section applies to a marriage that is to be solemnised on the authority of certificates issued by a superintendent registrar under Part 3 of the Marriage Act 1949 (the "1949 Act") unless each party to the marriage falls within exception A or exception B.

(1A) A party to the marriage falls within exception A if the person is a relevant national.

(1B) A party to the marriage falls within exception B if—

(a) the person is exempt from immigration control, and

(b) the notice of marriage is accompanied by the specified evidence required by section 28C(2) of the 1949 Act that the person is exempt from immigration control.".

(3) For subsection (4) substitute—

"(4) In this section—

(a) a reference to a person being a relevant national, or being exempt from immigration control, has the same meaning as in section 49 of the Immigration Act 2014;

(b) "notice of marriage" means a notice of marriage given under section 27 of the 1949 Act.".

(4) Schedule 23 to the Civil Partnership Act 2004 (immigration control and formation of civil partnerships) is amended in accordance with subsections (5) to (9).

(5) Before paragraph 1 insert—

"A1 (1) Part 2 of this Schedule applies to a civil partnership that is to be formed in England and Wales by signing a civil partnership schedule unless each party to the civil partnership falls within exception A or exception B.

(2) A party to the civil partnership falls within exception A if the person is a relevant national.

(3) A party to the civil partnership falls within exception B if—

(a) the person is exempt from immigration control, and

(b) the notice of civil partnership is accompanied by the specified evidence required by section 9A(2) that the person is exempt from immigration control.

(4) In this paragraph, a reference to a person being a relevant national, or being exempt from immigration control, has the same meaning as in section 49 of the Immigration Act 2014.".

(6) For paragraph 1(1) substitute—

"1 (1A) Part 3 of this Schedule applies if—

(a) two people wish to register in Scotland as civil partners of each other, and

(b) one of them is subject to immigration control.

(1B) Part 4 of this Schedule applies if—

(a) two people wish to register in Northern Ireland as civil partners of each other, and

(b) one of them is subject to immigration control.".

(7) For paragraph 3 substitute—

"3 This Part of this Schedule applies as mentioned in paragraph A1.".

(8) For paragraph 8 substitute—

"8 This Part of this Schedule applies as mentioned in paragraph 1(1A).".

(9) For paragraph 12 substitute—

"12 This Part of this Schedule applies as mentioned in paragraph 1(1B).".

Information

59 Information

Schedule 6 (information) has effect.

Miscellaneous

60 Regulations about evidence

(1) The Secretary of State may make regulations about evidence relevant to the determination of any of the following questions for a purpose of this Part—

(a) whether a person is a relevant national;

(b) whether a person has the appropriate immigration status;

(c) whether a person has a relevant visa.

(2) The regulations may, in particular, make provision about—

(a) the kind of evidence which is to be supplied;

(b) the form in which evidence is to be supplied;

(c) the manner in which evidence is to be supplied;

(d) the period within which evidence is to be supplied;

(e) the supply of further evidence;

(f) the sufficiency of evidence supplied;

(g) the consequences of failing to supply sufficient evidence in accordance with the regulations (including provision to secure that, in such a case, a particular decision is made or is to be treated as having been made);

(h) the retention or copying of evidence supplied.

(3) The Secretary of State must consult the Registrar General before making regulations under this section.

(4) In this section "evidence" includes a photograph or other image.

61 Notices

(1) The Secretary of State may, by regulations, make provision about the giving of—

(a) notices under any provision of this Part;

(b) notices relating to the referral of proposed marriages under section 28H of the Marriage Act 1949 which are given under any provision of that Act;

(c) notices relating to the referral of proposed civil partnerships under section 12A of the Civil Partnership Act 2004 which are given under any provision of that Act.

(2) The regulations may, in particular, make provision that a notice given in accordance with the regulations is to be presumed to have been received by the person to whom it is given.

(3) The Secretary of State must consult the Registrar General before making regulations under this section.

62 Interpretation of this Part

(1) These expressions have the meanings given—

"exempt person" has the meaning given in section 49;

"registrar" means a registrar of births, deaths and marriages;

"Registrar General" means the Registrar General for England and Wales;

"registration authority" has the same meaning as in the Civil Partnership Act 2004 (see section 28 of that Act);

"relevant national" means—

(a) a British citizen,

(b) a national of an EEA State other than the United Kingdom, or

(c) a national of Switzerland;

"relevant statutory period" means—

(a) in relation to a proposed marriage, the period—

(i) beginning the day after notice of the proposed marriage is entered in the marriage book in accordance with Part 3 of the Marriage Act 1949, or is entered in an approved electronic form by virtue of section 27(4A) of that Act, and

(ii) ending at the end of the period of 28 days beginning with that day;

(b) in relation to a proposed civil partnership, the period—

(i) beginning the day after notice of the proposed civil partnership is recorded in the register in accordance with Chapter 1 of Part 2 of the Civil Partnership Act 2004, and

(ii) ending at the end of the period of 28 days beginning with that day;

"section 48 notice" means a notice given under section 48(7) or (8);

"superintendent registrar" means a superintendent registrar of births, deaths and marriages.

(2) A reference to a person being a party to a proposed marriage or civil partnership is a reference to a person who would be a party to the marriage or civil partnership if it took place as proposed.

(3) A reference to a proposed marriage or civil partnership being a sham is a reference to a marriage or civil partnership which would (if it took place as proposed) be a sham marriage or sham civil partnership (within the meaning of the Immigration and Asylum Act 1999 — see section 24 or 24A of that Act).

(4) For provision about the interpretation of the following expressions, see section 49—

(a) the appropriate immigration status;

(b) a relevant visa.

(5) This section, and the provision mentioned in subsection (4), apply for the purposes of this Part.

PART 5

OVERSIGHT

Office of the Immigration Services Commissioner

63 Immigration advisers and immigration service providers

Schedule 7 (immigration advisers and immigration service providers) has effect.

Police Ombudsman for Northern Ireland

64 Police Ombudsman for Northern Ireland

After section 60ZA of the Police (Northern Ireland) Act 1998 insert—

"**60ZB Immigration and customs enforcement functions**

(1) The Ombudsman and the Secretary of State may enter into an agreement to establish, in relation to the exercise of specified enforcement functions by relevant officials, procedures which correspond to or are similar to any of those established by virtue of this Part.

(2) Where no such procedures are in force in relation to a particular kind of relevant official, the Secretary of State may by order establish such procedures in relation to the exercise of specified enforcement functions by that kind of relevant official.

(3) "Relevant officials" means—

(a) immigration officers and other officials of the Secretary of State exercising functions relating to immigration or asylum;

(b) designated customs officials, and officials of the Secretary of State, exercising customs functions (within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009);

(c) the Director of Border Revenue exercising customs revenue functions (within the meaning of that Part of that Act), and persons exercising such functions of the Director;

(d) persons providing services pursuant to arrangements relating to the discharge of a function within paragraph (a), (b), or (c).

(4) "Enforcement functions" includes, in particular—

(a) powers of entry,

(b) powers to search persons or property,

(c) powers to seize or detain property,

(d) powers to arrest persons,

(e) powers to detain persons, and

(f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data).

(5) "Specified" means specified in an agreement under subsection (1) or an order under subsection (2).

(6) "Immigration officer" means a person appointed under paragraph 1(1) of Schedule 2 to the Immigration Act 1971.

60ZC Section 60ZB: supplementary

(1) An agreement under section 60ZB may at any time be varied or terminated—

(a) by the Secretary of State, or

(b) by the Ombudsman, with the consent of the Secretary of State.

(2) Before making an order under section 60ZB the Secretary of State must consult the Ombudsman and such persons as the Secretary of State thinks appropriate.

(3) An agreement or order under section 60ZB may provide for payment by the Secretary of State to or in respect of the Ombudsman.

(4) An agreement or order under section 60ZB must relate only to the exercise of enforcement functions—

(a) wholly in Northern Ireland, or

(b) partly in Northern Ireland and partly in another part of the United Kingdom.

(5) An agreement or order under section 60ZB must relate only to the exercise of enforcement functions on or after the day on which the agreement or order is made.

(6) An agreement or order under section 60ZB must not provide for procedures in relation to so much of any complaint or matter as relates to functions conferred by or under Part 8 of the Immigration and Asylum Act 1999 (detained persons & removal centres etc.)."

PART 6

MISCELLANEOUS

Citizenship

65 Persons unable to acquire citizenship: natural father not married to mother

After section 4D of the British Nationality Act 1981 insert—

"**4E The general conditions**

For the purposes of sections 4F to 4I, a person ("P") meets the general conditions if—

(a) P was born before 1 July 2006;

(b) at the time of P's birth, P's mother—

(i) was not married, or

(ii) was married to a person other than P's natural father;

(c) no person is treated as the father of P under section 28 of the Human Fertilisation and Embryology Act 1990; and

(d) P has never been a British citizen.

4F Person unable to be registered under other provisions of this Act

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—

(a) P meets the general conditions; and

(b) P would be entitled to be registered as a British citizen under—

(i) section 1(3),

(ii) section 3(2),

(iii) section 3(5),

(iv) paragraph 4 of Schedule 2, or

(v) paragraph 5 of Schedule 2,

had P's mother been married to P's natural father at the time of P's birth.

(2) In the following provisions of this section "relevant registration provision" means the provision under which P would be entitled to be registered as a British citizen (as mentioned in subsection (1)(b)).

(3) If the relevant registration provision is section 3(2), a person who is registered as a British citizen under this section is a British citizen by descent.

(4) If the relevant registration provision is section 3(5), the Secretary of State may, in the special circumstances of the particular case, waive the need for any or all of the parental consents to be given.

(5) For that purpose, the "parental consents" are—

(a) the consent of P's natural father, and

(b) the consent of P's mother,

insofar as they would be required by section 3(5)(c) (as read with section 3(6)(b)), had P's mother been married to P's natural father at the time of P's birth.

4G Person unable to become citizen automatically after commencement

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—

(a) P meets the general conditions; and

(b) at any time in the period after commencement, P would have automatically become a British citizen at birth by the operation of any provision of this Act or the British Nationality (Falkland Islands) Act 1983, had P's mother been married to P's natural father at the time of P's birth.

(2) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at birth (as mentioned in subsection (1)(b)) would (by virtue of section 14) have been British citizenship by descent.

(3) If P is under the age of 18, no application may be made unless the consent of P's natural father and mother to the registration has been signified in the prescribed manner.

(4) But if P's natural father or mother has died on or before the date of the application, the reference in subsection (3) to P's natural father and mother is to be read as a reference to either of them.

(5) The Secretary of State may, in the special circumstances of a particular case, waive the need for any or all of the consents required by subsection (3) (as read with subsection (4)) to be given.

(6) The reference in this section to the period after commencement does not include the time of commencement (and, accordingly, this section does not apply to any case in which a person was unable to become a British citizen at commencement).

4H Citizen of UK and colonies unable to become citizen at commencement

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—

(a) P meets the general conditions;

(b) P was a citizen of the United Kingdom and Colonies immediately before commencement; and

(c) P would have automatically become a British citizen at commencement, by the operation of any provision of this Act, had P's mother been married to P's natural father at the time of P's birth.

(2) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at commencement (as mentioned in subsection (1)(c)) would (by virtue of section 14) have been British citizenship by descent.

4I Other person unable to become citizen at commencement

(1) A person ("P") is entitled to be registered as a British citizen on an application made under this section if—
  (a) P meets the general conditions;
  (b) P is either—
    (i) an eligible former British national, or
    (ii) an eligible non-British national; and
  (c) had P's mother been married to P's natural father at the time of P's birth, P—
    (i) would have been a citizen of the United Kingdom and Colonies immediately before commencement, and
    (ii) would have automatically become a British citizen at commencement by the operation of any provision of this Act.

(2) P is an "eligible former British national" if P was not a citizen of the United Kingdom and Colonies immediately before commencement and either—
  (a) P ceased to be a British subject or a citizen of the United Kingdom and Colonies by virtue of the commencement of any independence legislation, but would not have done so had P's mother been married to P's natural father at the time of P's birth, or
  (b) P was a British subject who did not automatically become a citizen of the United Kingdom and Colonies at commencement of the British Nationality Act 1948 by the operation of any provision of it, but would have done so had P's mother been married to P's natural father at the time of P's birth.

(3) P is an "eligible non-British national" if—
  (a) P was never a British subject or citizen of the United Kingdom and Colonies; and
  (b) had P's mother been married to P's natural father at the time of P's birth, P would have automatically become a British subject or citizen of the United Kingdom and Colonies—
    (i) at birth, or
    (ii) by virtue of paragraph 3 of Schedule 3 to the British Nationality Act 1948 (child of male British subject to become citizen of the United Kingdom and Colonies if the father becomes such a citizen).

(4) A person who is registered as a British citizen under this section is a British citizen by descent if the British citizenship which the person would have acquired at commencement (as mentioned in subsection (1)(c)(ii)) would (by virtue of section 14) have been British citizenship by descent.

(5) In determining for the purposes of subsection (1)(c)(i) whether P would have been a citizen of the United Kingdom and Colonies immediately before commencement, it must be assumed that P would not have—
  (a) renounced or been deprived of any notional British nationality, or
  (b) lost any notional British nationality by virtue of P acquiring the nationality of a country or territory outside the United Kingdom.

(6) A "notional British nationality" is—

(a) in a case where P is an eligible former British national, any status as a British subject or a citizen of the United Kingdom and Colonies which P would have held at any time after P's nationality loss (had that loss not occurred and had P's mother had been married to P's natural father at the time of P's birth);

(b) in a case where P is an eligible non-British national—

(i) P's status as a British subject or citizen of the United Kingdom and Colonies mentioned in subsection (3)(b), and

(ii) any other status as a British subject or citizen of the United Kingdom and Colonies which P would have held at any time afterwards (had P's mother been married to P's natural father at the time of P's birth).

(7) In this section—

"British subject" has any meaning which it had for the purposes of the British Nationality and Status of Aliens Act 1914;

"independence legislation" means an Act of Parliament or any subordinate legislation (within the meaning of the Interpretation Act 1978) forming part of the law in the United Kingdom (whenever passed or made, and whether or not still in force)—

(a) providing for a country or territory to become independent from the United Kingdom, or

(b) dealing with nationality, or any other ancillary matters, in connection with a country or territory becoming independent from the United Kingdom;

"P's nationality loss" means P's—

(a) ceasing to be a British subject or citizen of the United Kingdom and Colonies (as mentioned in subsection (2)(a)), or

(b) not becoming a citizen of the United Kingdom and Colonies (as mentioned in subsection (2)(b)).

4J Sections 4E to 4I: supplementary provision

(1) In sections 4E to 4I and this section, a person's "natural father" is a person who satisfies the requirements as to proof of paternity that are prescribed in regulations under section 50(9B).

(2) The power under section 50(9B) to make different provision for different circumstances includes power to make provision for the purposes of any provision of sections 4E to 4I which is different from other provision made under section 50(9B).

(3) The following provisions apply for the purposes of sections 4E to 4I.

(4) A reference to a person automatically becoming a British citizen, or a citizen of the United Kingdom and Colonies, is a reference to the person becoming such a citizen without the need for—

(a) the person to be registered as such a citizen by the Secretary of State or any other minister of the Crown;

(b) the birth of the person to be registered by a diplomatic or consular representative of the United Kingdom; or

(c) the person to be naturalised as such a citizen.

(5) If the mother of a person could not actually have been married to the person's natural father at the time of the person's birth (for whatever reason), that fact does not prevent an assumption being made that the couple were married at the time of the birth."

66 Deprivation if conduct seriously prejudicial to vital interests of the UK

(1) In section 40 of the British Nationality Act 1981 (deprivation of citizenship), after subsection (4) insert—

"(4A) But that does not prevent the Secretary of State from making an order under subsection (2) to deprive a person of a citizenship status if—

(a) the citizenship status results from the person's naturalisation,

(b) the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory, and

(c) the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory."

(2) In deciding whether to make an order under subsection (2) of section 40 of the British Nationality Act 1981 in a case which falls within subsection (4A) of that Act, the Secretary of State may take account of the manner in which a person conducted him or herself before this section came into force.

(3) After section 40A of the British Nationality Act 1981 insert—

"**40B Review of power under section 40(4A)**

(1) The Secretary of State must arrange for a review of the operation of the relevant deprivation power to be carried out in relation to each of the following periods—

(a) the initial one year period;

(b) each subsequent three year period.

(2) The "relevant deprivation power" is the power to make orders under section 40(2) to deprive persons of a citizenship status in the circumstances set out in section 40(4A).

(3) A review must be completed as soon as practicable after the end of the period to which the review relates.

(4) As soon as practicable after a person has carried out a review in relation to a particular period, the person must—

(a) produce a report of the outcome of the review, and

(b) send a copy of the report to the Secretary of State.

(5) The Secretary of State must lay before each House of Parliament a copy of each report sent under subsection (4)(b).

(6) The Secretary of State may, after consultation with the person who produced the report, exclude a part of the report from the copy laid before Parliament if the Secretary of State is of the opinion that it would be contrary to the public interest or prejudicial to national security for that part of the report to be made public.

(7) The Secretary of State may—

(a) make such payments as the Secretary of State thinks appropriate in connection with the carrying out of a review, and

(b) make such other arrangements as the Secretary of State thinks appropriate in connection with the carrying out of a review (including arrangements for the provision of staff, other resources and facilities).

(8) In this section—

"initial one year period" means the period of one year beginning with the day when section 40(4A) comes into force;

"subsequent three year period" means a period of three years beginning with the first day after the most recent of—

(a) the initial one year period, or

(b) the most recent subsequent three year period."

Embarkation checks

67 Embarkation checks

Schedule 8 (embarkation checks) has effect.

Fees

68 Fees

(1) The Secretary of State may provide, in accordance with this section, for fees to be charged in respect of the exercise of functions in connection with immigration or nationality.

(2) The functions in respect of which fees are to be charged are to be specified by the Secretary of State by order ("a fees order").

(3) A fees order—

(a) must specify how the fee in respect of the exercise of each specified function is to be calculated, and

(b) may not provide for a fee to be charged in respect of the exercise of a function otherwise than in connection with an application or claim, or on request.

(4) For any specified fee, a fees order must provide for it to comprise one or more amounts each of which is—

(a) a fixed amount, or

(b) an amount calculated by reference to an hourly rate or other factor.

(5) Where a fees order provides for a fee (or part of a fee) to be a fixed amount, it—
- (a) must specify a maximum amount for the fee (or part), and
- (b) may specify a minimum amount.

(6) Where a fees order provides for a fee (or part of a fee) to be calculated as mentioned in subsection (4)(b), it—
- (a) must specify—
  - (i) how the fee (or part) is to be calculated, and
  - (ii) a maximum rate or other factor, and
- (b) may specify a minimum rate or other factor.

(7) For any specified fee, the following are to be set by the Secretary of State by regulations ("fees regulations")—
- (a) if the fee (or any part of it) is to be a fixed amount, that amount;
- (b) if the fee (or any part of it) is to be calculated as mentioned in subsection (4)(b), the hourly rate or other factor by reference to which it (or that part) is to be calculated.

(8) An amount, or rate or other factor, set by fees regulations for a fee in respect of the exercise of a specified function—
- (a) must not—
  - (i) exceed the maximum specified for that amount, or rate or other factor;
  - (ii) be less than the minimum, if any, so specified;
- (b) subject to that, may be intended to exceed, or result in a fee which exceeds, the costs of exercising the function.

(9) In setting the amount of any fee, or rate or other factor, in fees regulations, the Secretary of State may have regard only to—
- (a) the costs of exercising the function;
- (b) benefits that the Secretary of State thinks are likely to accrue to any person in connection with the exercise of the function;
- (c) the costs of exercising any other function in connection with immigration or nationality;
- (d) the promotion of economic growth;
- (e) fees charged by or on behalf of governments of other countries in respect of comparable functions;
- (f) any international agreement.

This is subject to section 69(5).

(10) In respect of any fee provided for under this section, fees regulations may—
- (a) provide for exceptions;
- (b) provide for the reduction, waiver or refund of part or all of a fee (whether by conferring a discretion or otherwise);
- (c) make provision about—
  - (i) the consequences of failure to pay a fee;
  - (ii) enforcement;
  - (iii) when a fee may or must be paid.

(11) Any provision that may be made by fees regulations by virtue of subsection (10) may be included instead in a fees order (and any provision so included may be amended or revoked by fees regulations).

(12) In this section and sections 69 and 70—

"costs" includes—

(a) the costs of the Secretary of State, and

(b) the costs of any other person (whether or not funded from public money);

"fees order" has the meaning given by subsection (2);

"fees regulations" has the meaning given by subsection (7);

"function" includes a power or a duty;

"function in connection with immigration or nationality" includes a function in connection with an enactment (including an enactment of a jurisdiction outside the United Kingdom) that relates wholly or partly to immigration or nationality;

"specified" means specified in a fees order.

(13) Any reference in this section or section 70 to the exercise of a function includes a reference to its exercise in particular circumstances, including its exercise—

(a) at particular times or in a particular place;

(b) under particular arrangements;

(c) otherwise in particular ways,

and, for this purpose, "arrangements" includes arrangements for the convenience of applicants, claimants or persons making requests for the exercise of a function.

69 Fees orders and fees regulations: supplemental

(1) A fees order or fees regulations may be made only with the consent of the Treasury.

(2) A fee under section 68 may relate to something done outside the United Kingdom.

(3) Fees payable by virtue of section 68 may be recovered as a debt due to the Secretary of State.

(4) Fees paid to the Secretary of State by virtue of section 68 must—

(a) be paid into the Consolidated Fund, or

(b) be applied in such other way as the relevant order may specify.

(5) Section 68 is without prejudice to—

(a) section 1 of the Consular Fees Act 1980 (fees for consular acts etc);

(b) section 102 of the Finance (No. 2) Act 1987 (government fees and charges), or

(c) any other power to charge a fee.

70 Power to charge fees for attendance services in particular cases

(1) This section applies where a person exercises a function in connection with immigration or nationality in respect of which a fee is chargeable by virtue of a fees order (a "chargeable function") in a particular case and—

(a) in doing so attends at a place outside the United Kingdom, and time, agreed with a person ("the client"), and

(b) does so at the request of the client.

It is immaterial whether or not the client is a person in respect of whom the chargeable function is exercised.

(2) In this section "attendance service" means the service described in subsection (1) except so far as it consists of the exercise of a chargeable function.

(3) The following are to be disregarded in determining whether a fee is chargeable in respect of a function by virtue of a fees order—
  (a) any exception provided for by a fees order or fees regulations;
  (b) any power so provided to waive or refund a fee.

(4) The person exercising the chargeable function may charge the client such fee for the purposes of recovering the costs of providing the attendance service as the person may determine.

(5) Fees paid to the Secretary of State by virtue of this section must be paid into the Consolidated Fund.

(6) A fee payable by virtue of this section may be recovered as a debt due to the Secretary of State.

(7) This section is without prejudice to—
  (a) section 68;
  (b) section 1 of the Consular Fees Act 1980 (fees for consular acts etc);
  (c) section 102 of the Finance (No. 2) Act 1987 (government fees and charges), or
  (d) any other power to charge a fee.

Welfare of children

71 Duty regarding the welfare of children

For the avoidance of doubt, this Act does not limit any duty imposed on the Secretary of State or any other person by section 55 of the Borders, Citizenship and Immigration Act 2009 (duty regarding the welfare of children).

PART 7

FINAL PROVISIONS

72 Financial provision

The following are to be paid out of money provided by Parliament—
  (a) expenditure incurred under or by virtue of this Act by the Secretary of State, and
  (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

73 Transitional and consequential provision

(1) The Secretary of State may, by order, make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

(2) The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of this Act.

(3) The provision that may be made by an order under subsection (2) includes provision amending, repealing or revoking any enactment.

(4) "Enactment" includes—

(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

(c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

(d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

(5) In section 61(2) of the UK Borders Act 2007 (definition of "the Immigration Acts")—

(a) at the end of paragraph (h), omit "and";

(b) at the end of paragraph (i) insert ", and

(j) the Immigration Act 2014.".

(6) Schedule 9 (transitional and consequential provision) has effect.

74 Orders and regulations

(1) Any power of the Secretary of State or Treasury to make an order or regulations under this Act is exercisable by statutory instrument.

(2) A statutory instrument containing any of the following orders or regulations may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House of Parliament—

(a) an order under section 20(7), 23(6) or 25(5);

(b) an order under section 38;

(c) regulations under section 41;

(d) an order under section 43, or under a section amended by such an order;

(e) the first regulations under section 50(1);

(f) the first regulations under section 50(5);

(g) the first regulations under section 51(3);

(h) the first regulations under section 51(4);

(i) an order under section 53 or 54(4) or (6);

(j) a fees order (within the meaning of section 68);

(k) an order under section 73(2) which amends or repeals primary legislation;

(l) an order under paragraph 2(3)(e) of Schedule 6.

(3) "Primary legislation" means any of the following—

(a) a public general Act;

(b) an Act of the Scottish Parliament;
(c) a Measure or Act of the National Assembly for Wales;
(d) Northern Ireland legislation.

(4) A statutory instrument containing any other order or regulations made by the Secretary of State or Treasury under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) But subsection (4) does not apply to a statutory instrument containing an order under any of sections 35(3), 73(1) and 75(3) (subject to subsection (7)).

(6) Subsection (7) applies if an order under section 75(3) is made which—
(a) brings into force a provision of Chapter 1 of Part 3,
(b) brings that provision into force only in relation to a particular area or areas within England and Wales, Scotland or Northern Ireland, and
(c) is the first order to be made bringing into force a provision of that Chapter only in relation to an area or areas within England and Wales, Scotland or Northern Ireland.

(7) A statutory instrument containing any subsequent order under section 75(3) (after the order mentioned in subsection (6)) that brings into force a provision of Chapter 1 of Part 3 for anywhere other than the area or areas mentioned in paragraph (b) of that subsection is subject to annulment in pursuance of a resolution of either House of Parliament.

(8) An order or regulations made by the Secretary of State or Treasury under this Act may—
(a) make different provision for different purposes or areas,
(b) make provision which applies generally or only for particular purposes or areas,
(c) make transitional, transitory or saving provision, or
(d) make incidental, supplementary or consequential provision.

75 Commencement

(1) This Part, other than section 73(6) and Schedule 9, comes into force on the day on which this Act is passed.

(2) Section 56, section 59 and Schedule 6, and section 62 come into force at the end of the period of two months beginning with the day on which this Act is passed.

(3) Subject to subsections (1) and (2), this Act comes into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or areas.

76 Extent

(1) This Act extends to England and Wales, Scotland and Northern Ireland.

(2) Subsection (1) is subject to subsection (3).

(3) Section 59 and Schedule 6 extend to England and Wales only.

(4) Subsections (1) to (3) do not apply to an amendment, repeal or revocation made by this Act.

(5) An amendment, repeal or revocation made by this Act has the same extent as the provision amended, repealed or revoked (ignoring extent by virtue of an Order in Council).

(6) Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man.

(7) Subsection (6) does not apply in relation to the extension to a place of a provision which extends there by virtue of subsection (5).

77 Short title

This Act may be cited as the Immigration Act 2014.

SCHEDULES

SCHEDULE 1

Section 4

ENFORCEMENT POWERS

Power to escort detained persons

1 In Schedule 2 to the Immigration Act 1971, in paragraph 18(3) (power to escort detained persons) for the first "or of" substitute "an immigration officer, or".

Power to search detained persons

2 (1) In Schedule 2 to the Immigration Act 1971, after paragraph 18 insert—

"18A (1) An immigration officer or constable may search a person ("P") who is detained under paragraph 16 for anything which P might use—

(a) to cause physical injury to P or others, or

(b) to assist P's escape from legal custody.

(2) The power to search P—

(a) unless sub-paragraph (3) applies, does not include power to require P to remove any clothing other than an outer coat, jacket or glove, but

(b) includes power to require P to open P's mouth.

(3) This sub-paragraph applies if an immigration officer or constable has reasonable grounds to believe that there is concealed on P anything which P might use as mentioned in sub-paragraph (1).

(4) The power to search P may be exercised only to the extent reasonably required for the purpose of discovering anything which P might use as mentioned in sub-paragraph (1).

(5) An intimate search (as defined in section 28H(11)) may not be conducted under this paragraph.

(6) An immigration officer or constable may seize and retain anything found on a search of P if the officer or constable has reasonable grounds to believe P might use it as mentioned in sub-paragraph (1).

(7) Nothing seized under sub-paragraph (6) may be retained when P is released from detention under paragraph 16."

(2) In paragraph 2(4) of Schedule 3 to the Immigration Act 1971 (which applies certain provisions of Schedule 2 to that Act), for ", 18" substitute "to 18A".

(3) In section 10(7) of the Immigration and Asylum Act 1999 (which applies certain provisions of Schedule 2 to the Immigration Act 1971), for "18" substitute "18A".

(4) In section 47(3) of the Immigration, Asylum and Nationality Act 2006 (which applies certain provisions of Schedule 2 to the Immigration Act 1971), for "18" substitute "18A".

(5) In regulation 22(2) of the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) (which applies certain provisions of Schedule 2 to the Immigration Act 1971), for "18" substitute "18A".

Entry and search of premises

3 (1) Paragraph 25A of Schedule 2 to the Immigration Act 1971 (power to enter premises and search for documents following arrest) is amended as follows.

(2) In sub-paragraph (1)(b) for "by a constable (other than under this Schedule)" substitute "other than under this Schedule".

(3) After sub-paragraph (6) insert—

"(6A) If, on an application made by an immigration officer, a justice of the peace is satisfied that—

(a) there are reasonable grounds for believing that relevant documents may be found on premises not within sub-paragraph (2) which are specified in the application, and

(b) any of the conditions in sub-paragraph (6B) is met,

the justice of the peace may issue a warrant authorising an immigration officer to enter and search the premises.

(6B) The conditions are that—

(a) it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the relevant documents;

(c) entry to the premises will not be granted unless a warrant is produced;

(d) the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer arriving at the premises can secure immediate entry.

(6C) In the application of sub-paragraph (6A) to Scotland, references to a justice of the peace are to be treated as references to the sheriff or a justice of the peace."

(4) In sub-paragraph (7)—

(a) for "sub-paragraph (2)" substitute "this paragraph";

(b) in paragraph (a) omit "and retain";

(c) omit paragraph (b) and the "but" before it.

(5) After sub-paragraph (8) insert—

"(8A) An immigration officer may retain a document seized under sub-paragraph (7) while the officer has reasonable grounds for believing that—

(a) the arrested person may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and

(b) retention of the document may facilitate the person's removal."

4 In sections 28J(11) and 28K(14) of the Immigration Act 1971 (warrants - safeguards and execution) after "paragraph 17(2)" insert "or 25A(6A)".

General power to use reasonable force

5 In section 146(1) of the Immigration and Asylum Act 1999 (power of immigration officer to use reasonable force when exercising powers under certain enactments) for "the 1971 Act or this Act" substitute "the Immigration Acts".

SCHEDULE 2

Section 12

MEANING OF BIOMETRIC INFORMATION

Immigration Act 1971 (c. 77)

1 (1) Schedule 2 to the Immigration Act 1971 (entry control) is amended as follows.

(2) In paragraph 4(5)—

(a) after "provide" insert "biometric";

(b) omit from "about his external physical characteristics" to the end.

(3) After paragraph 4(5) insert—

"(6) Biometric information" has the meaning given by section 15 of the UK Borders Act 2007."

(4) In paragraph 18(2A), for "fingerprints" substitute "biometric information (within the meaning given by section 15 of the UK Borders Act 2007)".

Immigration and Asylum Act 1999 (c. 33)

2 (1) Section 144 of the Immigration and Asylum Act 1999 (provision for collecting physical data other than fingerprints) is amended as follows.

(2) In subsection (1), for "data about external physical characteristics" substitute "biometric information".

(3) For subsection (2) substitute—

"(2) Biometric information" has the meaning given by section 15 of the UK Borders Act 2007."

Nationality, Immigration and Asylum Act 2002 (c. 41)

3 (1) Section 126 of the Nationality, Immigration and Asylum Act 2002 (power to require provision of physical data with certain immigration applications) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "information about external physical characteristics of the applicant" substitute "biometric information";

(b) in paragraphs (b) and (c), for "information about his external physical characteristics" substitute "biometric information".

(3) In subsection (4)(a), (b) and (c), before "information" insert "biometric".

(4) In subsection (9), after the definition of "authorised person" insert—

""biometric information" has the meaning given by section 15 of the UK Borders Act 2007,".

(5) In that subsection, omit the definition of "external physical characteristics" (and the "and" before it).

4 (1) Section 127 of that Act (voluntary provision of physical data) is amended as follows.

(2) In subsection (1), for "information about his external physical characteristics" substitute "biometric information".

(3) In subsection (2)(a) and (b), before "information" insert "biometric".

(4) In subsection (3)—

(a) after paragraph (a) insert—

"(aa) biometric information", and";

(b) omit the "and" at the end of paragraph (b);

(c) omit paragraph (c).

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

5 In section 35(2) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (imposition of requirements to facilitate deportation or removal), for paragraph (c) substitute—

"(c) provide biometric information (within the meaning of section 15 of the UK Borders Act 2007), or submit to a process by means of which such information is obtained or recorded;".

SCHEDULE 3

Section 20

EXCLUDED RESIDENTIAL TENANCY AGREEMENTS

Social housing

1 (1) An agreement that grants a right of occupation in social housing.

(2) "Social housing" means accommodation provided to a person by virtue of a relevant provision.

(3) "Relevant provision" means a provision of—

(a) in relation to England and Wales—

(i) Part 2 of the Housing Act 1985, or

(ii) Part 6 or 7 of the Housing Act 1996;

(b) in relation to Scotland, Part 1 or 2 of the Housing (Scotland) Act 1987;

(c) in relation to Northern Ireland—

(i) Chapter 4 of Part 2 of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)), or

(ii) Part 2 of the Housing (Northern Ireland) Order 1988 (S.I. 1988/1990 (N.I. 23)).

(4) Accommodation provided to a person by virtue of a relevant provision includes accommodation provided in pursuance of arrangements made under any such provision.

2 (1) This paragraph applies for the purposes of paragraph 1.

(2) An allocation of housing accommodation by a local housing authority in England to a person who is already—

(a) a secure or introductory tenant, or

(b) an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord,

is to be treated as an allocation of housing accommodation by virtue of Part 6 of the Housing Act 1996 (and accordingly section 159(4A) of that Act is to be ignored).

(3) An allocation of housing accommodation that falls within a case specified in, or prescribed under, section 160 of the Housing Act 1996 (cases where provisions about allocation under Part 6 of that Act do not apply) is to be treated as an allocation of housing accommodation by virtue of Part 6 of that Act (and accordingly that section is to be ignored).

(4) An allocation of housing accommodation by virtue of Part 1 of the Housing (Scotland) Act 1987 is to be treated as provided by virtue of a relevant provision only if it is provided by a local authority within the meaning of that Act (or in pursuance of arrangements made under or for the purposes of that Part with a local authority).

(5) Accommodation provided to a person in Northern Ireland by a registered housing association is to be treated as provided to the person by virtue of a relevant provision.

(6) Terms used in sub-paragraphs (2) and (3) have the same meanings as in Part 6 of the Housing Act 1996.

(7) In sub-paragraph (5) "registered housing association" means a housing association, within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)), that is registered in the register of housing associations maintained under Article 14 of that Order.

Care homes

3 (1) An agreement that grants a right of occupation in a care home.

(2) "Care home" means—

(a) in relation to England and Wales, an establishment that is a care home for the purposes of the Care Standards Act 2000;

(b) in relation to Scotland, accommodation that is provided as a care home service within the meaning of Part 5 of the Public Services Reform (Scotland) Act 2010;

(c) in relation to Northern Ireland, an establishment that is a residential care home, or a nursing home, for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)).

Hospitals and hospices

4 (1) An agreement that grants a right of occupation of accommodation in a hospital or hospice.

(2) "Hospital"—

(a) in relation to England, has the meaning given in section 275 of the National Health Service Act 2006;

(b) in relation to Wales, has the meaning given in section 206 of the National Health Service (Wales) Act 2006;

(c) in relation to Scotland, has the meaning given in section 108 of the National Health Service (Scotland) Act 1978;

(d) in relation to Northern Ireland, has the meaning given in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).

(3) "Hospice" means an establishment other than a hospital whose primary function is the provision of palliative care to persons resident there who are suffering from a progressive disease in its final stages.

Other accommodation relating to healthcare provision

5 (1) An agreement—

(a) under which accommodation is provided to a person as a result of a duty imposed on a relevant NHS body by an enactment, and

(b) which is not excluded by another provision of this Schedule.

(2) "Relevant NHS body" means—

(a) in relation to England—

(i) a clinical commissioning group, or

(ii) the National Health Service Commissioning Board;

(b) in relation to Wales, a local health board;

(c) in relation to Scotland, a health board constituted by order made under section 2 of the National Health Service (Scotland) Act 1978;

(d) in relation to Northern Ireland, a Health and Social Services trust.

Hostels and refuges

6 (1) An agreement that grants a right of occupation of accommodation in a hostel or refuge.

(2) "Hostel" means a building which satisfies the following two conditions.

(3) The first condition is that the building is used for providing to persons generally, or to a class of persons—

(a) residential accommodation otherwise than in separate and self-contained premises, and

(b) board or facilities for the preparation of food adequate to the needs of those persons (or both).

(4) The second condition is that any of the following applies in relation to the building—

(a) it is managed by a registered housing association;

(b) it is not operated on a commercial basis and its costs of operation are provided wholly or in part by a government department or agency, or by a local authority;

(c) it is managed by a voluntary organisation or charity.

(5) "Refuge" means a building which satisfies the second condition in sub-paragraph (4) and is used wholly or mainly for providing accommodation to persons who have been subject to any incident, or pattern of incidents, of—

(a) controlling, coercive or threatening behaviour,

(b) physical violence,

(c) abuse of any other description (whether physical or mental in nature), or

(d) threats of any such violence or abuse.

(6) In this paragraph—

"government department" includes—

(a) any part of the Scottish Administration;

(b) a Northern Ireland department;

(c) the Welsh Assembly Government;

(d) any body or authority exercising statutory functions on behalf of the Crown;

"registered housing association" means—

(a) a private registered provider of social housing;

(b) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 or section 165 of the Housing (Scotland) Act 2010;

(c) a housing association which is registered in a register maintained under Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15));

"voluntary organisation" means a body, other than a public or local authority, whose activities are not carried on for profit.

Accommodation from or involving local authorities

7 (1) An agreement—

(a) under which accommodation is provided to a person as a result of a duty or relevant power that is imposed or conferred on a local authority by an enactment (whether or not provided by the local authority), and

(b) which is not excluded by another provision of this Schedule.

(2) "Relevant power" means a power that is exercised for, or in connection with, a purpose of providing accommodation to a person who is homeless or is threatened with homelessness.

(3) In sub-paragraph (2) the reference to a person who is homeless or is threatened with homelessness is to be read in accordance with—

(a) in relation to England and Wales, section 175 of the Housing Act 1996;

(b) in relation to Scotland, section 24 of the Housing (Scotland) Act 1987;

(c) in relation to Northern Ireland, Article 3 of the Housing (Northern Ireland) Order 1988 (S.I. 1988/1990 (N.I. 23)).

Accommodation provided by virtue of immigration provisions

8 An agreement granting a right of occupation of accommodation that is provided to an individual by virtue of any of the following provisions of the Immigration and Asylum Act 1999—

(a) section 4 (provision of accommodation to persons granted temporary admission etc);

(b) section 95 (provision of support to asylum seekers etc);

(c) section 98 (provision of temporary support to asylum seekers etc).

Mobile homes

9 An agreement to which the Mobile Homes Act 1983 applies.

Tied accommodation

10 (1) An agreement that grants a right of occupation of tied accommodation.

(2) "Tied accommodation" means accommodation that is provided—

(a) by an employer to an employee in connection with a contract of employment, or

(b) by a body providing training in a trade, profession or vocation to an individual in connection with that training.

(3) In this paragraph "employer" and "employee" have the same meanings as in the Employment Rights Act 1996 (see section 230 of that Act).

Student accommodation

11 (1) An agreement that grants a right of occupation in a building which—

(a) is used wholly or mainly for the accommodation of students, and

(b) satisfies either of the following conditions.

(2) The first condition is that the building is owned or managed by any of the following—

(a) an institution within the meaning of paragraph 5 of Schedule 1 to the Local Government Finance Act 1992;

(b) a body that is specified in regulations made under Article 42(2A) of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28));

(c) a body established for charitable purposes only.

(3) The second condition is that the building is a hall of residence.

(4) In this paragraph and paragraph 12 "student"—

(a) in relation to England and Wales or Scotland, has the same meaning as in paragraph 4 of Schedule 1 to the Local Government Finance Act 1992;

(b) in relation to Northern Ireland, means a person who satisfies such conditions as to education or training as may be specified in regulations made under Article 42(2A) of the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)).

12 An agreement under which accommodation is provided to a student who has been nominated to occupy it by an institution or body of the kind mentioned in paragraph 11(2).

Long leases

13 (1) An agreement that—
(a) is, or is for, a long lease, or
(b) grants a right of occupation for a term of 7 years or more.

(2) "Long lease" means—
(a) in relation to England and Wales, a lease which is a long lease for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 or which, in the case of a shared ownership lease (within the meaning given by section 7(7) of that Act), would be such a lease if the tenant's total share (within the meaning given by that section) were 100 per cent;
(b) in relation to Scotland, has the meaning given by section 9(2) of the Land Registration (Scotland) Act 2012.

(3) An agreement does not grant a right of occupation for a term of 7 years or more if the agreement can be terminated at the option of a party before the end of 7 years from the commencement of the term.

Interpretation

14 (1) This paragraph applies for the purposes of this Schedule.

(2) "Building" includes a part of a building.

(3) "Enactment" includes—
(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
(c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
(d) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

(4) "Local authority" means—
(a) in relation to England—
(i) a county, district or parish council in England,
(ii) a London borough council,
(iii) the Common Council of the City of London in its capacity as a local authority, or
(iv) the Council of the Isles of Scilly;
(b) in relation to Wales, any county, county borough or community council in Wales;
(c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(d) in relation to Northern Ireland, a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)).

SCHEDULE 4

Section 52

REFERRAL OF PROPOSED MARRIAGES AND CIVIL PARTNERSHIPS IN ENGLAND AND WALES

PART 1

MARRIAGE

Introduction

1 The Marriage Act 1949 is amended in accordance with this Part of this Schedule.

Supply of additional information and evidence

2 (1) Section 27 (notice of marriage) is amended in accordance with this paragraph.

(2) In subsection (3), after "surname," insert "the date of birth,".

(3) In subsection (4), for "27A" substitute "27ZA".

3 (1) After section 27 insert—

"**27ZA Entry of particulars in notice book: compliance with requirements**

The superintendent registrar shall not enter the particulars relating to a marriage in the marriage notice book in accordance with section 27(4), or in an approved electronic form by virtue of section 27(4A), in a case where any of the following requirements is applicable but is not complied with—

(a) a requirement imposed by or under any of the following provisions of this Act—

section 27A(2) or (3);
section 27A(4);
section 27B(2);
section 27E(3) to (7);
section 27E(8);
section 28B(1);
section 28C(4) or (6);

(b) the requirement imposed by section 19(2) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.".

(2) Omit section 27A(5).

4 After section 27D insert—

"**27E Additional information if party not relevant national**

(1) This section applies to notice of marriage given to a superintendent registrar in accordance with section 27 if one, or each, of the parties to the proposed marriage is not a relevant national.

(2) But this section does not apply if section 39A applies to the proposed marriage.

(3) For each party to the proposed marriage who is not a relevant national, the notice must include whichever of statements A, B or C is applicable to that person.

(4) Statement A is a statement that the person has the appropriate immigration status.

(5) Statement B is a statement that the person holds a relevant visa in respect of the proposed marriage.

(6) Statement C is a statement that the person neither—
   (a) has the appropriate immigration status, nor
   (b) holds a relevant visa in respect of the proposed marriage.

(7) If the notice contains the statement referred to in the first column of an entry in this table, the notice must be accompanied by the information and photographs referred to in the second column of that entry (insofar as that entry is applicable to the parties to the proposed marriage)—

If the notice includes this statement...	*...the notice must be accompanied by...*
Statement A (in respect of one or both of the parties to the proposed marriage)	For each party in respect of whom statement A is made, details of the particular immigration status which that party has
Statement B (in respect of one or both of the parties to the proposed marriage)	1. For each party, a specified photograph of that party 2. For each party in respect of whom statement B is made, details of the relevant visa which that party has
Statement C (in respect of one or both of the parties to the proposed marriage)	1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party whose usual address is outside the United Kingdom, an address in the United Kingdom at which that party can be contacted by post 4. For each party who has previously used any name or names other than the person's name stated in the notice in accordance with

If the notice includes this statement...	*...the notice must be accompanied by...*
	section 27(3), a statement of the other name or names 5. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases

(8) If the notice contains more than one of statements A, B and C, subsection (7) must be complied with in relation to each of those statements; but where the notice contains statements B and C, subsection (7) does not require the notice to be accompanied by more than one specified photograph of each party.

(9) If the notice includes statement C for a party to the proposed marriage—

(a) the notice may be accompanied by a statement ("statement D") of that person's immigration position in the United Kingdom;

(b) if the notice is accompanied by statement D for a party to the proposed marriage, the person may provide the superintendent registrar with details of his or her immigration position in the United Kingdom; and

(c) if any such details are provided, the superintendent registrar must record them.

(10) In this section—

(a) a reference—

(i) to a person having the appropriate immigration status, or

(ii) to a person holding a relevant visa,

has the same meaning as in section 49 of the Immigration Act 2014;

(b) a reference to the particular immigration status which a person has is a reference to the immigration status set out in any of paragraphs (a) to (c) of section 49(2) of that Act which the person has;

(c) a reference to a person's immigration position in the United Kingdom includes a reference to the person's not being entitled to be in the United Kingdom.

(11) In this section "specified photograph" means a photograph that is in accordance with regulations made under section 28G (and for this purpose "photograph" includes other kinds of images).".

5 In section 28 (declaration to accompany notice of marriage), in subsection (1), after paragraph (c) insert—

"(d) that he or she believes all of the information stated in the notice, and all information and evidence supplied with the notice, is true.".

6 (1) Section 28A (power to require evidence) is amended in accordance with this paragraph.

(2) For the title substitute "**Power to require evidence of consent to marriages of same sex couples**".

(3) Omit subsection (1).

(4) In subsection (2), for the words before "may" substitute "A requirement under subsection (1A)".

(5) Omit subsection (3).

7 After section 28A insert—

"**28B Provision of evidence**

(1) A notice of marriage under section 27 must, in relation to each of the parties to the marriage, be accompanied by specified evidence of the following matters—

(a) the person's name and surname;

(b) the person's date of birth;

(c) the person's place of residence;

(d) the person's nationality.

(2) A person giving a notice of marriage under section 27 must provide the superintendent registrar to whom the notice is given with specified evidence—

(a) as to whether the person has previously been married or formed a civil partnership; and

(b) if so, as to the ending of the marriage or civil partnership.

(3) In this section "specified evidence" means evidence that is in accordance with regulations made under section 28G.

28C Additional evidence if party not relevant national

(1) This section applies to notice of marriage given to a superintendent registrar in accordance with section 27 if one, or each, of the parties to the proposed marriage is not a relevant national.

(2) If the notice includes statement A (referred to in section 27E(4)), and accordingly is accompanied by details of the particular immigration status which a party to the proposed marriage has, the notice must be accompanied by specified evidence of that status.

(3) If the notice includes statement B (referred to in section 27E(5)), the notice must be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed marriage.

(4) If, in accordance with section 27E(7), the notice is accompanied by the usual address of a party to the proposed marriage, the notice must also be accompanied by specified evidence that it is that party's usual address.

(5) If the notice includes statement D (referred to in section 27E(9)), the notice may be accompanied by evidence of the person's immigration position in the United Kingdom.

(6) If subsection (2) or (3) applies to the notice, and the notice is not accompanied by the specified evidence required by that subsection, the notice must be accompanied by—

(a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 27E(7);

(b) as respects the usual address of each party that is provided in accordance with paragraph (a), specified evidence that the address provided is that party's usual address; and

(c) addresses, names and aliases of the kinds referred to in paragraphs 3 to 5 in the relevant entry in section 27E(7) (insofar as those paragraphs are applicable to the parties to the proposed marriage).

(7) In this section—

"relevant entry in section 27E(7)" means the second column of the last entry in the table in section 27E(7);

"specified evidence" means evidence that is in accordance with regulations made under section 28G.

28D Change of usual address or UK contact address

(1) The Secretary of State may, by regulations, make provision about the giving to the Secretary of State of—

(a) notice of a person's usual address, if the person's notified usual address changes;

(b) notice of a UK contact address, if the person's notified usual address is not in the United Kingdom;

(c) notice of a person's UK contact address, if the person's notified UK contact address changes;

(d) evidence of any address notified in accordance with regulations under paragraph (a), (b) or (c).

(2) The provision that may be made in regulations under this section includes—

(a) provision imposing a requirement on a person;

(b) provision about the rejection of information or evidence which there are reasonable grounds to suspect to be false.

(3) Regulations under subsection (1)(d) may, in particular, make any provision of the kind that may be made under section 28G(3).

(4) Regulations under this section are to be made by statutory instrument; and a statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

"notified UK contact address" means an address in the United Kingdom, at which a person can be contacted by post, that has been notified in accordance with—

(a) section 27E(7) or 28C(6), or

(b) regulations under this section;

"notified usual address" means the usual address of a person that has been notified in accordance with—

(a) section 27E(7) or 28C(6), or

(b) regulations under this section.

28E Rejection of false information or evidence

(1) A superintendent registrar may reject—

(a) any information or photograph provided under section 27, 27E or 28C, or

(b) any evidence provided under section 28A, 28B or 28C,

if (in particular) the superintendent registrar has reasonable grounds for suspecting that the information, photograph or evidence is false.

(2) If the superintendent registrar rejects any information, photograph or evidence, the superintendent registrar may proceed under this Act as if the rejected information, photograph or evidence had not been provided.

(3) This section does not limit the powers of superintendent registrars to reject anything provided under any other enactment.

28F Amendment of notice and evidence provisions

(1) The Secretary of State may by order—

(a) amend section 27, 27E or 28C so as to vary the information that must or may be given in cases where that section applies;

(b) amend section 28B or 28C so as to vary the matters in respect of which evidence must or may be given in cases where that section applies;

(c) make such provision (including provision amending section 27ZA, 28D or 28G or any other enactment) as the Secretary of State considers appropriate in consequence of provision made under paragraph (a) or (b).

(2) The Secretary of State must consult the Registrar General before making an order under this section.

(3) An order under this section is to be made by statutory instrument; and no statutory instrument containing such an order may be made unless a draft of it has been laid before, and approved by resolution of, each House of Parliament.

28G Specified evidence

(1) The Registrar General may make regulations about the evidence that is required to be given for the purposes of section 8, 16 or 28B.

(2) The Secretary of State may make regulations about the evidence that is required to be given for the purposes of section 28C.

(3) Regulations under this section may, in particular, make provision about—

(a) the kind of evidence which is to be supplied;

(b) the form in which evidence is to be supplied;

(c) the manner in which evidence is to be supplied;

(d) the period within which evidence is to be supplied;

(e) the supply of further evidence;

(f) the sufficiency of evidence supplied;

(g) the consequences of failing to supply sufficient evidence in accordance with the regulations (including provision to secure that, in such a case, a particular decision is made or is to be treated as having been made);

(h) the retention or copying of evidence supplied.

(4) In this section "evidence" includes a photograph or other image.

(5) The Secretary of State must consult the Registrar General before making regulations under this section.

(6) The Registrar General must obtain the approval of the Secretary of State before making regulations under this section.

(7) Regulations under this section are to be made by statutory instrument.

(8) A statutory instrument containing regulations under this section made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.".

Referral to Secretary of State

8 After section 28G insert—

"**28H Referral of proposed marriage to Secretary of State**

(1) On every occasion when notice of marriage is given under section 27, a superintendent registrar must decide whether or not each of the parties to the proposed marriage is an exempt person.

(2) But this section does not apply if section 39A applies to the proposed marriage.

(3) In making a decision under subsection (1) about a party to a proposed marriage, a superintendent registrar may rely on any advice given in relation to that decision by the Secretary of State.

(4) In a case where—

(a) section 27E applies to the notice of marriage, and

(b) specified evidence required by section 28C(2) or (3) in relation to a party to the proposed marriage is not produced in accordance with that section,

the superintendent registrar must decide that that party to the proposed marriage is not an exempt person.

(5) If the superintendent registrar decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the superintendent registrar must—

(a) refer the proposed marriage to the Secretary of State;

(b) notify the parties to the proposed marriage that the proposed marriage must be referred to the Secretary of State;

(c) give the parties to the proposed marriage prescribed information about—

(i) the effects of the referral;

(ii) the requirement under regulations under section 28D to notify the Secretary of State of changes of address.

(6) The superintendent registrar must act in accordance with regulations when complying with the duty in subsection (5)(a) to refer a proposed marriage to the Secretary of State.

(7) Regulations may, in particular, make provision about—

(a) the form, manner or timing of the referral of a proposed marriage;

(b) information, photographs or evidence — or copies of any of those things — to be included with the referral of a proposed marriage.

(8) Regulations are to be made by statutory instrument; and a statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) If the superintendent registrar refers the proposed marriage to the Secretary of State, this Act has effect in relation to the proposed marriage subject to the modifications in Schedule 3A.

(10) In this section—

(a) a reference to a person being an exempt person has the same meaning as in section 49 of the Immigration Act 2014;

(b) "prescribed information" means information prescribed in regulations;

(c) "regulations" means regulations made by the Secretary of State after consulting the Registrar General.".

9 Before Schedule 4 insert—

"SCHEDULE
3A

MODIFICATIONS IF PROPOSED MARRIAGE REFERRED UNDER SECTION 28H

Introduction

1 (1) These are the modifications subject to which this Act has effect if the superintendent registrar refers a proposed marriage to the Secretary of State.

(2) In this Schedule—

"2014 Act" means the Immigration Act 2014;

"referred marriage" means the proposed marriage referred to the Secretary of State.

No certificate to be issued until decision about investigation etc

2 (1) The duty under section 31(2) to issue a certificate in respect of the referred marriage does not apply unless and until one of the following events occurs.

(2) Event 1 occurs if—

(a) the Secretary of State gives the superintendent registrar the section 48 notice, and

(b) that notice is of a decision not to investigate whether the referred marriage is a sham.

(3) Event 2 occurs if—

(a) the relevant statutory period ends, and

(b) the Secretary of State has not given the superintendent registrar the section 48 notice.

(4) Event 3 occurs if—

(a) the Secretary of State gives the superintendent registrar the section 48 notice,

(b) that notice is of a decision to investigate whether the referred marriage is a sham,

(c) the Secretary of State gives the superintendent registrar the section 50 notice, and

(d) that notice is of a decision that both of the parties to the referred marriage have complied with the investigation.

(5) Event 4 occurs if—

(a) the 70 day period ends, and

(b) the Secretary of State has not given the superintendent registrar the section 50 notice.

(6) Event 5 occurs if the Secretary of State gives the superintendent registrar notice that the duty under section 31(2) is applicable.

(7) The Secretary of State may give a notice for that purpose only if—

(a) the Secretary of State has given the superintendent registrar the section 48 notice,

(b) that notice is of a decision to investigate whether the referred marriage is a sham,

(c) the Secretary of State has given the superintendent registrar the section 50 notice, and

(d) that notice is of a decision that one or both of the parties to the referred marriage have not complied with the investigation.

(8) This paragraph applies in addition to any other requirements applicable to the issue of the certificate.

(9) This paragraph is subject to paragraph 4.

(10) In this paragraph—

"70 day period" has the same meaning as in section 50 of the 2014 Act;

"relevant statutory period" has the same meaning as in section 48 of the 2014 Act;

"section 48 notice" means notice under section 48(7) of the 2014 Act;

"section 50 notice" means notice under section 50(7) of the 2014 Act.

Marriage to be investigated: extension of waiting period to 70 days

3 (1) The modifications in this paragraph have effect if the Secretary of State gives the superintendent registrar notice under section 48(7) of the 2014 Act of a decision to investigate whether the referred marriage is a sham.

(2) Section 31(2): the reference to the said period of 28 days has effect as a reference to the relevant 70 day period.

(3) Section 31(4A)(a): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.

(4) Section 31(5A) and (5C): the reference to the 28 day period has effect as a reference to the relevant 70 day period.

(5) Section 31(5B) does not apply.

(6) Section 75(3)(a): the reference to 28 days has effect as a reference to 70 days (and the reference in section 31(5C) to 28 days has effect accordingly).

(7) In this paragraph "relevant 70 day period" means the period—

(a) beginning the day after notice of the proposed marriage is entered in the marriage book in accordance with Part 3 of the Marriage Act 1949, or is entered in an approved electronic form by virtue of section 27(4A) of that Act, and

(b) ending at the end of the period of 70 days beginning with that day.

Effect of reducing statutory period

4 (1) This paragraph applies if—

(a) the Secretary of State gives notice under section 31(5EB) of the grant of an application made under section 31(5A) (reduction of statutory period) in relation to the referred marriage, and

(b) that notice is given at a time when the duty under section 31(2) to issue a certificate in respect of the referred marriage has not arisen in accordance with paragraph 2.

(2) The duty under subsection 31(2) to issue a certificate in respect of the referred marriage arises on the giving of the notice, subject to any other requirements applicable to the issue of the certificate being met.

(3) But the requirements of paragraph 2 are not applicable in such a case.

(4) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if a certificate in respect of the referred marriage is issued as mentioned in sub-paragraph (2).

(5) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, to conduct, or to continue, an investigation.

(6) In this paragraph "investigation" means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed marriage is a sham.".

Notice period

10 (1) Section 31 (marriage under certificate without licence) is amended in accordance with this paragraph.

(2) In section 31—

(a) for "15 successive days" (in each place) substitute "28 successive days";

(b) for "15 days" (in each place) substitute "28 days";

(c) for "15 day period" (in each place) substitute "28 day period".

(3) After subsection (5E) insert—

"(5EA) If a proposed marriage is referred to the Secretary of State under section 28H—

(a) any application under subsection (5A) is to be made to the Secretary of State; and

(b) the power conferred by subsection (5A) is exercisable by the Secretary of State;

and the reference to the Registrar General in subsection (5C) accordingly has effect as a reference to the Secretary of State.

(5EB) If the Secretary of State grants an application made under subsection (5A), the Secretary of State must give notice of the grant of the application to the applicant and to the superintendent registrar to whom notice of the marriage was given.

(5EC) Regulations under subsection (5D) do not apply to applications made to the Secretary of State in accordance with subsection (5EA).

(5ED) The Secretary of State may by regulations make provision with respect to the making, and granting, of applications made in accordance with subsection (5EA).

(5EE) The Secretary of State must consult the Registrar General before making regulations under subsection (5ED).".

(4) In subsection (5H), after "(5D)" insert "or (5ED)".

Marriage referred to Secretary of State: issue of certificates

11 (1) In section 31 (marriage under certificate without licence), at the end insert—

"(7) This section has effect subject to section 31ZA.".

(2) After section 31 insert—

"**31ZA Notice of marriage: false information or evidence**

(1) A superintendent registrar may refuse to issue a certificate under section 31(2) in a case where—

(a) notice of marriage has been given under section 27, and

(b) a superintendent registrar has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence.

(2) If the superintendent registrar refuses to issue the certificate, the parties to the proposed marriage are to be taken not to have given notice under section 27; but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the giving of the notice.

(3) This section does not limit the powers of superintendent registrars to refuse to issue certificates under section 31 in respect of marriages.

(4) In this section—

"evidence" includes a photograph or other image;

"exempt person" has the same meaning as in section 28H;

"relevant decision" means a decision of a superintendent registrar that a party to a proposed marriage is an exempt person.".

(3) In section 31A (appeal on refusal under section 31(2)(a))—

(a) in the title, at the end insert "**or 31ZA**";

(b) in subsection (1), after "31(2)(a)" insert "or 31ZA";

(c) after subsection (2) insert—

"(2A) In a case where—

(a) in reliance on section 31ZA, a superintendent registrar refuses to issue a certificate, and

(b) on an appeal against the refusal, the Registrar General directs that a certificate be issued,

section 31ZA(2) is of no effect — and is to be taken to have never had any effect — in relation to the parties' giving of notice under section 27.";

(d) after subsection (3) insert—

"(3A) If—

(a) relying on section 31ZA, a superintendent registrar refuses to issue a certificate, and

(b) on an appeal against the refusal, the Registrar General declares the appeal to have been frivolous,

the person making the appeal is liable for the costs of the proceedings before the Registrar General.";

(e) in subsection (4)—

(i) for "such costs and damages" substitute "costs and damages in accordance with subsection (3) or (3A)";

(ii) at the end insert "(in the case of subsection (3)) or evidence that the Registrar General has declared the appeal to have been frivolous (in the case of subsection (3A))".

Certificates

12 (1) Section 35 (marriage in registration district in which neither party resides) is amended in accordance with sub-paragraphs (2) and (3).

(2) After subsection (3) insert—

"(3A) In a case where one or both of the persons to be married ("the couple") are not relevant nationals, a superintendent registrar may issue a certificate

for the solemnization of a marriage in a qualifying church or chapel, notwithstanding that it is not within a registration district in which either of the couple resides.

(3B) In subsection (3A) "qualifying church or chapel" means a church or chapel which is not the usual place of worship of the couple but in which it would be possible—

(a) (if section 5(3)(a) were disregarded) for the marriage of the couple to be solemnized in accordance with section 5(1)(a) (marriage after publication of banns), or

(b) (if section 5(3)(b) were disregarded) for the marriage of the couple to be solemnized in accordance with section 5(1)(c) (marriage on authority of common licence).".

(3) After subsection (5) insert—

"(6) Where a marriage is intended to be solemnized on the authority of certificates of a superintendent registrar issued under subsection (3A), each notice of marriage given to the superintendent registrar and each certificate issued by the superintendent registrar shall state, in addition to the description of the church or chapel in which the marriage is to be solemnized, that it would be possible for the marriage of the couple to be solemnized in that church or chapel after the publication of banns or on the authority of a common licence (if section 5(3) were disregarded).".

(4) Omit section 38.

One party resident in Scotland

13 In section 37 (one party resident in Scotland), in subsection (1)(b), for the words from "with" to "Act" (in the first place) substitute "with section 27 and the other provisions of this Act".

Proof of certain matters not necessary to validity of marriages

14 In section 48 (proof of certain matters not necessary to validity of marriages), in subsection (1)—

(a) omit the word "or" at the end of paragraph (e) (inserted by paragraph 14(c) of Schedule 7 to the Marriage (Same Sex Couples) Act 2013);

(b) at the end of paragraph (ea) (inserted by that provision of the Marriage (Same Sex Couples) Act 2013) insert "or

(eb) that, in the case of a marriage to which Schedule 3A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred.".

Regulations etc

15 In section 74 (regulations), after subsection (2) insert—

"(3) Any order or regulations made under this Act may make different provision for different cases.".

Offences

16 In section 75 (offences relating to solemnization of marriages), in subsection (3)(a), for "15 days" substitute "28 days".

Relevant nationals

17 In section 78 (interpretation of the 1949 Act), in subsection (1), after the definition of "registration district" insert—

""relevant national" means—

(a) a British citizen,

(b) a national of an EEA State other than the United Kingdom, or

(c) a national of Switzerland;".

PART 2

CIVIL PARTNERSHIP

Introduction

18 The Civil Partnership Act 2004 is amended in accordance with this Part of this Schedule.

Supply of additional information and evidence

19 (1) Section 8 (notice of proposed civil partnership and declaration) is amended in accordance with this paragraph.

(2) In subsection (4), after paragraph (b) insert—

"(c) that the proposed civil partner believes all of the information stated in the notice, and all information and evidence supplied with the notice, is true.".

(3) After subsection (5) insert—

"(5A) Subsection (5) is subject to section 9F.".

20 After section 8 insert—

"**8A Additional information if party not relevant national**

(1) This section applies to notice of proposed civil partnership given to a registration authority in accordance with section 8 if one, or each, of the parties to the proposed civil partnership is not a relevant national.

(2) But this section does not apply if Schedule 3 applies to the proposed civil partnership.

(3) For each party to the proposed civil partnership who is not a relevant national, the notice must include whichever of statements A, B or C is applicable to that person.

(4) Statement A is a statement that the person has the appropriate immigration status.

(5) Statement B is a statement that the person holds a relevant visa in respect of the proposed civil partnership.

(6) Statement C is a statement that the person neither—
  (a) has the appropriate immigration status, nor
  (b) holds a relevant visa in respect of the proposed civil partnership.

(7) If the notice contains the statement referred to in the first column of an entry in this table, the notice must be accompanied by the information and photographs referred to in the second column of that entry (insofar as that entry is applicable to the parties to the proposed civil partnership)—

If the notice includes this statement...	*...the notice must be accompanied by...*
Statement A (in respect of one or both of the parties to the proposed civil partnership)	For each party in respect of whom statement A is made, details of the particular immigration status which that party has
Statement B (in respect of one or both of the parties to the proposed civil partnership)	1. For each party, a specified photograph of that party 2. For each party in respect of whom statement B is made, details of the relevant visa which that party has
Statement C (in respect of one or both of the parties to the proposed civil partnership)	1. For each party, a specified photograph of that party 2. For each party, the usual address of that party 3. For each party whose usual address is outside the United Kingdom, an address in the United Kingdom at which that party can be contacted by post 4. For each party who has previously used any name or names other than the person's name stated in the notice of proposed civil partnership in accordance with regulations under section 8(2), a statement of the other name or names 5. For each party who currently uses, or has previously used, an alias or aliases, a statement of the alias or aliases

(8) If the notice contains more than one of statements A, B and C, subsection (7) must be complied with in relation to each of those statements; but where the notice contains statements B and C, subsection (7) does not require the notice to be accompanied by more than one specified photograph of each party.

(9) If the notice includes statement C for a party to the proposed civil partnership—

(a) the notice may be accompanied by a statement ("statement D") of that person's immigration position in the United Kingdom;

(b) if the notice is accompanied by statement D for a party to the proposed civil partnership, the person may provide the registration authority with details of his or her immigration position in the United Kingdom; and

(c) if any such details are provided, the registration authority must record them.

(10) In this section—

(a) a reference—

(i) to a person having the appropriate immigration status, or

(ii) to a person holding a relevant visa,

has the same meaning as in section 49 of the Immigration Act 2014;

(b) a reference to the particular immigration status which a person has is a reference to the immigration status set out in any of paragraphs (a) to (c) of section 49(2) of that Act which the person has;

(c) a reference to a person's immigration position in the United Kingdom includes a reference to the person's not being entitled to be in the United Kingdom.

(11) In this section "specified photograph" means a photograph that is in accordance with regulations made under section 9E (and for this purpose "photograph" includes other kinds of images).".

21 For section 9 substitute—

"**9 Evidence**

(1) A notice of proposed civil partnership under section 8 must, in relation to each of the parties to the civil partnership, be accompanied by specified evidence of the following matters—

(a) the person's name and surname;

(b) the person's date of birth;

(c) the person's place of residence;

(d) the person's nationality.

(2) A person giving a notice of proposed civil partnership under section 8 must provide the registration authority to which the notice is given with specified evidence—

(a) as to whether the person has previously formed a civil partnership or been married; and

(b) if so, as to the ending of the civil partnership or marriage.

(3) In this section "specified evidence" means evidence that is in accordance with regulations made under section 9E.

9A Additional evidence if party not relevant national

(1) This section applies to notice of proposed civil partnership given to a registration authority in accordance with section 8 if one, or each, of the parties to the proposed civil partnership is not a relevant national.

(2) If the notice includes statement A (referred to in section 8A(4)), and accordingly is accompanied by details of the particular immigration status which a party to the proposed civil partnership has, the notice must be accompanied by specified evidence of that status.

(3) If the notice includes statement B (referred to in section 8A(5)), the notice must be accompanied by specified evidence of the holding of the relevant visa by the party to the proposed civil partnership.

(4) If, in accordance with section 8A(7), the notice is accompanied by the usual address of a party to the proposed civil partnership, the notice must also be accompanied by specified evidence that it is that party's usual address.

(5) If the notice includes statement D (referred to in section 8A(9)), the notice may be accompanied by evidence of the person's immigration position in the United Kingdom.

(6) If subsection (2) or (3) applies to the notice, and the notice is not accompanied by the specified evidence required by that subsection, the notice must be accompanied by—

(a) photographs and addresses of the kinds referred to in paragraphs 1 and 2 in the relevant entry in section 8A(7);

(b) as respects the usual address of each party that is provided in accordance with paragraph (a), specified evidence that the address provided is that party's usual address; and

(c) addresses, names and aliases of the kinds referred to in paragraphs 3 to 5 in the relevant entry in section 8A(7) (insofar as those paragraphs are applicable to the parties to the proposed civil partnership).

(7) In this section—

"relevant entry in section 8A(7)" means the second column of the last entry in the table in section 8A(7);

"specified evidence" means evidence that is in accordance with regulations made under section 9E.

9B Change of usual address or UK contact address

(1) The Secretary of State may, by regulations, make provision about the giving to the Secretary of State of—

(a) notice of a person's usual address, if the person's notified usual address changes;

(b) notice of a UK contact address, if the person's notified usual address is not in the United Kingdom;

(c) notice of a person's UK contact address, if the person's notified UK contact address changes;

(d) evidence of any address notified in accordance with regulations under paragraph (a), (b) or (c).

(2) The provision that may be made in regulations under this section includes—

(a) provision imposing a requirement on a person;

(b) provision about the rejection of information or evidence which there are reasonable grounds to suspect to be false.

(3) Regulations under subsection (1)(d) may, in particular, make any provision of the kind that may be made under section 9E(3).

(4) In this section—

"notified UK contact address" means an address in the United Kingdom, at which a person can be contacted by post, that has been notified in accordance with—

(a) section 8A(7) or 9A(6), or

(b) regulations under this section;

"notified usual address" means the usual address of a person that has been notified in accordance with—

(a) section 8A(7) or 9A(6), or

(b) regulations under this section.

9C Rejection of false information or evidence

(1) A registration authority may reject—

(a) any information or photograph provided under section 8, 8A or 9A, or

(b) any evidence provided under section 9 or 9A,

if (in particular) the registration authority has reasonable grounds for suspecting that the information, photograph or evidence is false.

(2) If the registration authority rejects any information, photograph or evidence, the registration authority may proceed under this Act as if the rejected information, photograph or evidence had not been provided.

(3) This section does not limit the powers of registration authorities to reject anything provided under any other enactment.

9D Amendment of notice and evidence provisions

(1) The Secretary of State may by order—

(a) amend section 8A or 9A so as to vary the information that must or may be given in cases where that section applies;

(b) amend section 9 or 9A so as to vary the matters in respect of which specified evidence must or may be given in cases where that section applies;

(c) make such provision (including provision amending section 9B or 9E or any other enactment) as the Secretary of State considers appropriate in consequence of provision made under paragraph (a) or (b).

(2) The Secretary of State must consult the Registrar General before making an order under this section.

9E Specified evidence

(1) The Registrar General may make regulations about the evidence that is required to be given for the purposes of section 9.

(2) The Secretary of State may make regulations about the evidence that is required to be given for the purposes of section 9A.

(3) Regulations under this section may, in particular, make provision about—

(a) the kind of evidence which is to be supplied;
(b) the form in which evidence is to be supplied;
(c) the manner in which evidence is to be supplied;
(d) the period within which evidence is to be supplied;
(e) the supply of further evidence;
(f) the sufficiency of evidence supplied;
(g) the consequences of failing to supply sufficient evidence in accordance with the regulations (including provision to secure that, in such a case, a particular decision is made or is to be treated as having been made);
(h) the retention or copying of evidence supplied.

(4) In this section "evidence" includes a photograph or other image.

(5) The Registrar General must obtain the approval of the Secretary of State before making regulations under this section.

(6) The Secretary of State must consult the Registrar General before making regulations under this section.

9F Recording of information in the register: compliance with requirements

The registration authority must not enter in the register the information relating to a proposed civil partnership mentioned in section 8(5) in a case where any of the requirements imposed by or under any of the following provisions of this Act is applicable but is not complied with—

section 8A(3) to (7);
section 8A(8);
section 9(1);
section 9A(4) or (6);
section 18(3);
section 19(3);
paragraph 5(1) of Schedule 1;
paragraph 4 of Schedule 23.".

Notice period

22 In section 11 (meaning of "the waiting period"), for "15" substitute "28".

23 (1) Section 12 (power to shorten the waiting period) is amended in accordance with this paragraph.

(2) In subsection (1), for "15" substitute "28".

(3) After subsection (3) insert—

"(4) If a proposed civil partnership is referred to the Secretary of State under section 12A—

(a) any application under subsection (1) is to be made to the Secretary of State; and

(b) the power conferred by subsection (1) is exercisable by the Secretary of State.

(5) If the Secretary of State grants an application made under subsection (1), the Secretary of State must give notice of the grant of the application to—

(a) the applicant,

(b) the registration authority to which notice of the proposed civil partnership was given, and

(c) if different, the registration authority responsible for issuing the civil partnership schedule under section 14(1) in relation to the proposed civil partnership.

(6) Regulations under subsection (2) do not apply to applications made to the Secretary of State in accordance with subsection (4).

(7) The Secretary of State may by regulations make provision with respect to the making, and granting, of applications made in accordance with subsection (4).

(8) The Secretary of State must consult the Registrar General before making regulations under subsection (7).".

Referral to Secretary of State

24 After section 12 insert—

"**12A Referral of proposed civil partnership to Secretary of State**

(1) On every occasion when notice of proposed civil partnership is given under section 8, the registration authority must decide whether or not each of the parties to the proposed civil partnership is an exempt person.

(2) But this section does not apply if Schedule 3 applies to the proposed civil partnership.

(3) In making a decision under subsection (1) about a party to a proposed civil partnership, a registration authority may rely on any advice given in relation to that decision by the Secretary of State.

(4) In a case where—

(a) section 8A applies to the notice of proposed civil partnership, and

(b) specified evidence required by section 9A(2) or (3) in relation to a party to the proposed civil partnership is not produced in accordance with that section,

the registration authority must decide that that party to the proposed civil partnership is not an exempt person.

(5) If the registration authority decides that either of the parties is not an exempt person, or that both of the parties are not exempt persons, the registration authority must—

(a) refer the proposed civil partnership to the Secretary of State;

(b) notify the parties to the proposed civil partnership that the proposed civil partnership must be referred to the Secretary of State;

(c) give the parties to the proposed civil partnership prescribed information about—

(i) the effects of the referral;

(ii) the requirement under regulations under section 9B to notify the Secretary of State of changes of address.

(6) The registration authority must act in accordance with regulations when complying with the duty in subsection (5)(a) to refer a proposed civil partnership to the Secretary of State.

(7) Regulations may, in particular, make provision about—

(a) the form, manner or timing of the referral of a proposed civil partnership;

(b) information, photographs or evidence — or copies of any of those things — to be included with the referral of a proposed civil partnership.

(8) If the registration authority refers the proposed civil partnership to the Secretary of State, this Act has effect in relation to the proposed civil partnership subject to the modifications in Schedule 3A.

(9) In this section—

(a) a reference to a person being an exempt person has the same meaning as in section 49 of the Immigration Act 2014;

(b) "prescribed information" means information prescribed in regulations;

(c) "regulations" means regulations made by the Secretary of State after consulting the Registrar General.".

25 After Schedule 3 insert—

"SCHEDULE
3A

MODIFICATIONS IF PROPOSED CIVIL PARTNERSHIP REFERRED UNDER SECTION 12A

1 Introduction

(1) These are the modifications subject to which this Act has effect if the registration authority refers a proposed civil partnership to the Secretary of State.

(2) In this Schedule—

"2014 Act" means the Immigration Act 2014;

"referred civil partnership" means the proposed civil partnership referred to the Secretary of State.

2 No civil partnership schedule to be issued until decision about investigation etc

(1) The duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership does not apply unless and until one of the following events occurs.

(2) Event 1 occurs if—
- (a) the Secretary of State gives the registration authority or authorities the section 48 notice, and
- (b) that notice is of a decision not to investigate whether the referred civil partnership is a sham.

(3) Event 2 occurs if—
- (a) the relevant statutory period ends, and
- (b) the Secretary of State has not given the registration authority or authorities the section 48 notice.

(4) Event 3 occurs if—
- (a) the Secretary of State gives the registration authority or authorities the section 48 notice,
- (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
- (c) the Secretary of State gives the registration authority or authorities the section 50 notice, and
- (d) that notice is of a decision that both of the parties to the referred civil partnership have complied with the investigation.

(5) Event 4 occurs if—
- (a) the 70 day period ends, and
- (b) the Secretary of State has not given the registration authority or authorities the section 50 notice.

(6) Event 5 occurs if the Secretary of State gives the registration authority or authorities notice that the duty under section 14(1) is applicable.

(7) The Secretary of State may give a notice for that purpose only if—
- (a) the Secretary of State has given the registration authority or authorities the section 48 notice,
- (b) that notice is of a decision to investigate whether the referred civil partnership is a sham,
- (c) the Secretary of State has given the registration authority or authorities the section 50 notice, and
- (d) that notice is of a decision that one or both of the parties to the referred civil partnership have not complied with the investigation.

(8) This paragraph applies in addition to any other requirements applicable to the issue of the civil partnership schedule.

(9) This paragraph is subject to paragraph 4.

(10) In this paragraph—

"70 day period" has the same meaning as in section 50 of the 2014 Act;

"relevant statutory period" has the same meaning as in section 48 of the 2014 Act;

"section 48 notice" means notice under section 48(8) of the 2014 Act;

"section 50 notice" means notice under section 50(7) of the 2014 Act.

3 Civil partnership to be investigated: extension of waiting period to 70 days

(1) The modifications in this paragraph have effect if the Secretary of State gives the registration authority notice under section 48(8) of the 2014 Act of a decision to investigate whether the referred civil partnership is a sham.

(2) Section 11(b): the reference to the period of 28 days has effect as a reference to the relevant 70 day period.

(3) But, for the purposes of section 10, the waiting period is not extended by sub-paragraph (2).

(4) In this paragraph "relevant 70 day period" means the period—

(a) beginning the day after notice of the proposed civil partnership is recorded in the register in accordance with section 8(5), and

(b) ending at the end of the period of 70 days beginning with that day.

4 Effect of shortening waiting period

(1) This paragraph applies if—

(a) the Secretary of State gives notice under section 12(5) of the grant of an application made under section 12(1) (power to shorten the waiting period) in relation to the referred civil partnership, and

(b) that notice is given at a time when the duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership has not arisen in accordance with paragraph 2.

(2) The duty under section 14(1) to issue a civil partnership schedule in respect of the referred civil partnership arises on the giving of the notice under section 12(5), subject to any other requirements applicable to the issue of the schedule being met.

(3) But the requirements of paragraph 2 are not applicable in such a case.

(4) The Secretary of State is not prevented from deciding to conduct, conducting, or continuing, an investigation if a schedule in respect of the referred civil partnership is issued as mentioned in sub-paragraph (2).

(5) But in such a case, nothing in the 2014 Act requires the Secretary of State to decide whether to conduct, or to continue, an investigation.

(6) In this paragraph "investigation" means an investigation, conducted following a decision by the Secretary of State under section 48 of the 2014 Act, whether a proposed civil partnership is a sham.".

Civil partnership referred to Secretary of State: issue of civil partnership schedule

26 (1) In section 14 (issue of civil partnership schedule), at the end insert—

"(6) This section has effect subject to section 14A.".

(2) After section 14 insert—

"**14A Notice of proposed civil partnership: false information or evidence**

(1) A registration authority may refuse to issue a civil partnership schedule under section 14(1) in a case where—

(a) notice of a proposed civil partnership has been given under section 8, and

(b) a registration authority has reasonable grounds for suspecting that a relevant decision was made incorrectly because of the provision of false information or evidence.

(2) If a registration authority refuses to issue the schedule, the parties to the proposed civil partnership are to be taken not to have given notice under section 8; but that does not prevent criminal proceedings from being brought against either party, or any other person, in relation to the giving of the notice.

(3) This section does not limit the powers of registration authorities to refuse to issue civil partnership schedules.

(4) In this section—

"evidence" includes a photograph or other image;

"exempt person" has the same meaning as in section 12A;

"relevant decision" means a decision of a registration authority that a party to the proposed civil partnership is an exempt person.".

(3) In section 15 (appeal against refusal to issue civil partnership schedule)—

(a) in subsection (1)(b), after "14(3)" insert "or 14A";

(b) after subsection (2) insert—

"(3) In a case where—

(a) in reliance on section 14A, a registration authority refuses to issue a civil partnership schedule, and

(b) on an appeal against the refusal, the Registrar General directs that a civil partnership schedule be issued,

section 14A(2) is of no effect — and is to be taken to have never had any effect — in relation to the parties' giving of notice under section 8.".

(4) In section 16 (frivolous objections and representations: liability for costs etc)—

(a) in the title, after "**representations**" insert "**and appeals**";

(b) after subsection (3) insert—

"(3A) If—

(a) in reliance on section 14A, a registration authority refuses to issue a civil partnership schedule, and

(b) on an appeal against the refusal, the Registrar General declares that the appeal is frivolous,

the person making the appeal is liable for the costs of the proceedings before the Registrar General.";

(c) in subsection (4), for "such costs and damages" substitute "costs and damages in accordance with subsection (3) or (3A)".

Relevant nationals

27 After section 30 insert—

"**30A Relevant nationals**

In this Chapter "relevant national" means—

(a) a British citizen,

(b) a national of an EEA State other than the United Kingdom, or

(c) a national of Switzerland.".

Regulations and orders

28 (1) Section 36 (regulations and orders) is amended in accordance with this paragraph.

(2) In subsection (3), after "6A" insert "9B, 9E(2), 12(7) or 12A".

(3) In subsection (5), after "6A" insert "9B, 9E(2) or 12A".

(4) In subsection (6), after "section" insert "9D or".

Proof of certain matters not necessary to validity of civil partnership

29 In section 52 (proof of certain matters not necessary to validity of civil partnership), in subsection (1)—

(a) omit the word "or" at the end of paragraph (a);

(b) at the end of paragraph (aa) insert "or

(ab) that, in the case of a civil partnership to which Schedule 3A applied, any of the events listed in paragraph 2(2) to (6) of that Schedule occurred.".

SCHEDULE 5

Section 54

SHAM MARRIAGE AND CIVIL PARTNERSHIP: ADMINISTRATIVE REGULATIONS

Introduction

1 (1) This Schedule sets out the kinds of regulations which may be made by the Secretary of State under section 54(2).

(2) In this Schedule—

"extension order" has the meaning given in section 54(1);

"proposed Scottish or Northern Ireland marriage or civil partnership" means a proposed marriage or civil partnership under the law of Scotland or Northern Ireland.

Notices

2 (1) The Secretary of State may make regulations which make provision about the giving of relevant notices.

(2) Regulations under this paragraph may, in particular, provide that a relevant notice given in accordance with the regulations is to be presumed to have been received by the person to whom it is given.

(3) In this paragraph "relevant notice" means—

(a) a notice, under any provision of the referral and investigation scheme, which relates to a proposed Scottish or Northern Ireland marriage or civil partnership, and

(b) any other notice relating to the referral of a proposed Scottish or Northern Ireland marriage or civil partnership to the Secretary of State for the purposes of the referral and investigation scheme,

(whether or not the notice falls to be given by virtue of provision made by an extension order).

Evidence

3 (1) The Secretary of State may make regulations about the supply of evidence in accordance with a relevant evidence provision.

(2) Regulations under this paragraph may, in particular, make provision about—

(a) the kind of evidence which is to be supplied;

(b) the form in which evidence is to be supplied;

(c) the manner in which evidence is to be supplied;

(d) the period within which evidence is to be supplied;

(e) the supply of further evidence;

(f) the sufficiency of evidence supplied;

(g) the consequences of failing to supply sufficient evidence in accordance with the regulations (including provision to secure that, in such a case, a particular decision is made or is to be treated as having been made);

(h) the retention or copying of evidence supplied.

(3) In this paragraph—

"evidence" includes a photograph or other image;

"relevant evidence provision" means provision (whether or not made by an extension order) about the supply of evidence in relation to a proposed Scottish or Northern Ireland marriage or civil partnership in a case where one or both of the parties is not a relevant national.

Change of address

4 (1) The Secretary of State may, by regulations, make provision about the giving to the Secretary of State of—

(a) notice of a relevant person's usual address, if the person's notified usual address changes;

(b) notice of a relevant person's UK contact address, if the person's notified usual address is not in the United Kingdom;

(c) notice of a relevant person's UK contact address, if the person's notified UK contact address changes;

(d) evidence of any address notified in accordance with regulations under paragraph (a), (b) or (c).

(2) Regulations under this paragraph may, in particular, make—

(a) provision imposing a requirement on a person;

(b) provision about the rejection of information or evidence which there are reasonable grounds to suspect to be false.

(3) Regulations under sub-paragraph (1)(d) may, in particular, make any provision of the kind that may be made under paragraph 3(2).

(4) In this paragraph—

"notified", in relation to an address of a relevant person, means notified (whether to the Secretary of State or another person) in connection with the proposed Scottish or Northern Ireland marriage or civil partnership (including any such address notified in accordance with provision made by an extension order or regulations made under this paragraph);

"relevant person" means a person who is a party to a proposed Scottish or Northern Ireland marriage or civil partnership in a case where that person or the other party is not a relevant national (or both of them are not relevant nationals);

"UK contact address" means an address in the United Kingdom at which a person can be contacted by post.

Referral

5 (1) The Secretary of State may make regulations requiring a person to act in accordance with the regulations when complying with a duty of referral.

(2) The regulations may, in particular, make provision about—

(a) the form, manner or timing of the referral;

(b) information, photographs or evidence — or copies of any of those things — to be included with the referral.

(3) The Secretary of State may make regulations requiring a person who refers a proposed marriage or civil partnership in accordance with a duty of referral to give the parties to the proposed marriage or civil partnershipinformation prescribed in the regulations about—

(a) the effects of the referral;

(b) any requirements under regulations under paragraph 4 to notify the Secretary of State of changes of address.

(4) In this paragraph—

"duty of referral" means a duty (whether or not contained in provision made by an extension order) to refer a proposed Scottish or Northern Ireland marriage or civil partnership to the Secretary of State for the purposes of the referral and investigation scheme;

"referral" means the referral of a proposed Scottish or Northern Ireland marriage or civil partnership under a duty of referral.

Applications for shortening of waiting period

6 (1) The Secretary of State may make regulations about the making, and granting, of applications for the shortening of a waiting period in cases where a proposed Scottish or Northern Ireland marriage or civil partnership is referred to the Secretary of State in accordance with a duty of referral.

(2) Regulations may be made under this paragraph—

(a) whether the application falls to be made by virtue of provision made by an extension order or otherwise;

(b) whether the application falls to be made to the Secretary of State or another person.

(3) In this paragraph—

"duty of referral" has the same meaning as in paragraph 5;

"waiting period", in relation to a proposed Scottish or Northern Ireland marriage or civil partnership, means a period during which it is not possible for the marriage to be solemnized or civil partnership to be formed (but which falls after notice of the proposed marriage or civil partnership has been given for the purposes of enabling it to be solemnized or formed in due course).

SCHEDULE 6

Section 59

INFORMATION

PART 1

DISCLOSURE OF INFORMATION ETC WHERE PROPOSED MARRIAGE OR CIVIL PARTNERSHIP REFERRED TO SECRETARY OF STATE

1 (1) This paragraph applies if—

(a) a superintendent registrar refers a proposed marriage to the Secretary of State under section 28H of the Marriage Act 1949, or

(b) a registration authority refers a proposed civil partnership to the Secretary of State under section 12A of the Civil Partnership Act 2004.

(2) The Secretary of State may—

(a) disclose relevant information to a registration official, or

(b) supply a document containing relevant information to a registration official.

(3) In this paragraph "relevant information" means any of the following information—

(a) the fact that the proposed marriage or civil partnership has been referred to the Secretary of State;

(b) the names of the parties to the proposed marriage or civil partnership;

(c) in the case of a proposed marriage—

(i) any information included with the referral in accordance with regulations under section 28H of the Marriage Act 1949;

(ii) any address of a party to the proposed marriage notified to the Secretary of State in accordance with such regulations or regulations under section 28D of the Marriage Act 1949;

(d) in the case of a proposed civil partnership—

(i) any information included with the referral in accordance with regulations under section 12A of the Civil Partnership Act 2004;

(ii) any address of a party to the proposed civil partnership notified to the Secretary of State in accordance with such regulations or regulations under section 9B of the Civil Partnership Act 2004;

(e) details of any immigration enforcement action taken by the Secretary of State in respect of a party to the proposed marriage or civil partnership (including any action taken after solemnization of the marriage or formation of the civil partnership);

(f) details of any immigration decision taken wholly or partly by reference to the marriage or civil partnership (whether while it was proposed or after it was solemnized or formed).

PART 2

DISCLOSURE OF INFORMATION ETC FOR IMMIGRATION PURPOSES ETC

Disclosures by registration officials

2 (1) A registration official may—

(a) disclose any information held by the registration official, or

(b) supply any document held by the registration official,

to the Secretary of State, or to another registration official, for use for either of the following purposes.

(2) Those purposes are—

(a) immigration purposes;

(b) purposes connected with the exercise of functions relating to—

(i) the referral of proposed marriages to the Secretary of State under section 28H of the Marriage Act 1949, or

(ii) the referral of proposed civil partnerships to the Secretary of State under section 12A of the Civil Partnership Act 2004.

(3) In this paragraph "immigration purposes" means—

(a) the administration of immigration control under the Immigration Acts;

(b) the prevention, detection, investigation or prosecution of criminal offences relating to immigration;

(c) the imposition of penalties or charges under Part 3 of the Immigration and Asylum Act 1999;

(d) the provision of support for asylum-seekers and their dependants under Part 6 of that Act;

(e) such other purposes as may be specified by the Secretary of State by order.

3 A registration official may disclose to another registration official—

(a) the fact that a suspicion about a marriage or civil partnership has been reported to the Secretary of State under section 24 or 24A of the Immigration and Asylum Act 1999, and

(b) the content of any such report,

(whether or not the suspicion was reported by the registration official making the disclosure).

Disclosures by the Secretary of State

4 (1) The Secretary of State may—

(a) disclose any information held by the Secretary of State, or

(b) supply any document held by the Secretary of State,

to a registration official for use for verification purposes.

(2) In this paragraph "verification purposes" means—

(a) assisting in the verification of information provided to a relevant official by a person giving—

(i) notice of marriage under section 27 of the Marriage Act 1949, or

(ii) notice under section 8 of the Civil Partnership Act 2004;

(b) assisting in the verification of the immigration status of a person who contacts a relevant official in connection with the exercise of a function by a registration official;

(c) assisting in the verification of whether a person who contacts a relevant official in connection with the exercise of a function by a registration official—

(i) is suspected of involvement in crime relating to immigration, or

(ii) has been convicted of an offence relating to immigration.

(3) In this paragraph "relevant official" means—

(a) a registration official, or

(b) any other person employed to assist the exercise of functions by registration officials.

PART 3

DISCLOSURE OF INFORMATION ETC FOR PREVENTION OF CRIME ETC

5 (1) A registration official may—

(a) disclose any information held by the registration official, or

(b) supply any document held by the registration official,

to an eligible person, or to another registration official in England and Wales, for use for crime-fighting purposes.

(2) Information is disclosed, or a document is supplied, for use for crime-fighting purposes if condition A and condition B are met.

(3) Condition A is met if the registration official disclosing the information or supplying the document has reasonable grounds for suspecting that a criminal offence has been, is being, or is going to be committed.

(4) Condition B is met if the registration official discloses the information or supplies the document for use for one or both of these purposes—

(a) assisting in the verification of information supplied to that or any other registration official;

(b) assisting in the prevention, detection, investigation or prosecution of a criminal offence.

(5) In this section "eligible person" means—

(a) the Secretary of State;

(b) the Commissioners for Her Majesty's Revenue and Customs;

(c) a member of a police force operating in England and Wales or any part of it;

(d) a county council, a district council or a county borough council;

(e) the Greater London Authority, a London borough council or the Common Council of the City of London.

PART 4

GENERAL PROVISIONS

Limitations on powers

6 This Schedule does not authorise—

(a) a disclosure, in contravention of any provisions of the Data Protection Act 1998, of personal data which are not exempt from those provisions, or

(b) a disclosure which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

No breach of confidentiality etc

7 A disclosure of information which is authorised by this Schedule does not breach—

(a) an obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

Retention, copying and disposal of documents

8 A person to whom a document is supplied under any provision of this Schedule may—

(a) retain the document;

(b) copy the document;

(c) dispose of the document in such manner as the person thinks appropriate.

Saving for existing powers

9 This Schedule does not limit any other power under which—

(a) information may be disclosed, or

(b) documents may be supplied.

Meaning of "registration official"

10 A "registration official" is any of the following—

(a) the Registrar General;

(b) a superintendent registrar;

(c) a registrar;

(d) a registration authority or a person exercising the functions of a registration authority;

(e) a civil partnership registrar (within the meaning of Chapter 1 of Part 2 of the Civil Partnership Act 2004 — see section 29 of that Act).

SCHEDULE 7

Section 63

IMMIGRATION ADVISERS AND IMMIGRATION SERVICE PROVIDERS

Introductory

1 Part 5 of the Immigration and Asylum Act 1999 (which makes provision for the regulation of immigration advisers and immigration service providers) is amended in accordance with this Schedule.

Removal of Commissioner's power of exemption from registration

2 (1) In section 84(4) (persons exempt from prohibition on provision of immigration advice and services by unqualified persons)—

(a) omit paragraphs (a), (b) and (c) (and the word "or" which follows paragraph (c));

(b) in paragraph (d) omit "who".

(2) Omit the following provisions—

(a) section 84(5) and (7);

(b) section 85(2);

(c) section 87(3)(b);

(d) section 88(2)(c);

(e) section 89(4);

(f) paragraph 6(3)(b) and 9(1)(d) of Schedule 5;

(g) paragraph 6(3)(a) of Schedule 6.

Waiver of fees for registration

3 (1) Paragraph 5 of Schedule 6 (fees for registration) is amended as follows.

(2) In sub-paragraph (1)—

(a) after "order" insert "(a)";

(b) at the end insert—

"(b) make provision for, and in connection with, requiring or authorising the Commissioner to waive all or part of the specified fee in particular cases."

(3) In sub-paragraph (2) at the end insert "(but this is subject to any waiver in accordance with provision under sub-paragraph (1)(b))".

Cancellation of registration by Commissioner

4 (1) In section 87(3) (decisions of Commissioner which may be appealed to First-tier Tribunal) after paragraph (ea) insert—

"(eb) to cancel a registration under paragraph 4A(e) of that Schedule."

(2) In paragraph 9 of Schedule 5 (powers of Commissioner on determining a complaint)—

(a) omit sub-paragraph (1)(b);

(b) after sub-paragraph (1A) (inserted by paragraph 7(4) of this Schedule) insert—

"(1B) Sub-paragraph (1)(a) is subject to paragraph 4A(e) of Schedule 6 (duty of Commissioner to cancel registration of a person who is no longer competent or is otherwise unfit)."

(3) In paragraph 3 of Schedule 6 (applications for continued registration)—

(a) omit sub-paragraph (5);

(b) in sub-paragraph (6) for "Otherwise," substitute "Unless the Commissioner is required by paragraph 4A to cancel the applicant's registration";

(c) in sub-paragraph (7)(a) omit "or by a direction given by the First-tier Tribunal under section 89(2)(b)".

(4) In Schedule 6 (registration) after paragraph 4 insert—

"Further provision for the cancellation of registration

4A The Commissioner must cancel a person's registration if—

(a) the person asks for it to be cancelled;

(b) the person dies (in a case where the person is an individual) or is dissolved or wound up (in any other case);

(c) the person is convicted of an offence under section 25 or 26(1)(d) or (g) of the 1971 Act;

(d) under section 89(2A)(b) the First-tier Tribunal directs the Commissioner to cancel the person's registration; or

(e) the Commissioner considers that the person is no longer competent or is otherwise unfit to provide immigration advice or immigration services."

Suspension of registration

5 (1) In section 84(3) (limitations on effect of registration)—

(a) after "subject to" insert "(a)";

(b) at the end insert—

"(b) paragraph 4B(5) of that Schedule (effect of suspension of registration)."

(2) In section 87(4) (further functions of First-tier Tribunal)—

(a) for "a further function" substitute "further functions";

(b) at the end insert "and paragraph 4B of Schedule 6 (suspension of registration by First-tier Tribunal)".

(3) After paragraph 4A of Schedule 6 (inserted by paragraph 4(4) of this Schedule) insert—

"Suspension of registration

4B (1) The First-tier Tribunal may, on an application made to it by the Commissioner, suspend a person's registration if the person is for the time being charged with—

(a) an offence involving dishonesty or deception;

(b) an indictable offence; or

(c) an offence under section 25 or 26(1)(d) or (g) of the 1971 Act.

(2) The suspension of the person's registration ceases to have effect if one of these occurs—

(a) the person is acquitted of the offence;

(b) the charge is withdrawn;

(c) proceedings in respect of the charge are discontinued;

(d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.

(3) If the person is convicted of an offence under section 25 or 26(1)(d) or (g) of the 1971 Act, the suspension of the person's registration continues to have effect until the Commissioner cancels the person's registration (as required by paragraph 4A(c)).

(4) If the person is convicted of any other offence within sub-paragraph (1)—

(a) the Commissioner must as soon as reasonably practicable consider whether the person is no longer competent or is otherwise unfit to provide immigration advice or immigration services (so that the person's registration must be cancelled under paragraph 4A(e));

(b) the suspension of the person's registration continues to have effect until the Commissioner either cancels the person's registration, or decides that the person is competent and otherwise fit to provide immigration advice and immigration services.

(5) A person whose registration is suspended is not to be treated as a registered person for the purposes of section 84 (but is to be treated as a registered person for the purposes of the other provisions of this Part).

(6) Where a person's registration is suspended the Commissioner must as soon as reasonably practicable record the suspension in the register.

(7) Where a suspension ceases to have effect (and the person's registration is not cancelled) the Commissioner must as soon as reasonably practicable remove the record of the suspension from the register."

Inspections

6 After paragraph 4 of Schedule 5 insert—

"Inspections

4A The Commissioner may carry out inspections of the activities and businesses of registered persons."

Complaints and investigations

7 (1) For section 89(2) (powers of Tribunal on hearing charge against registered person) substitute—

"(2) Subsections (2A) and (2B) apply if the person charged was, at the time to which the charge relates, a registered person or a person acting on behalf of a registered person.

(2A) If the registered person mentioned in subsection (2) is still registered, the First-tier Tribunal may direct the Commissioner—

(a) to record the charge and the First-tier Tribunal's decision on it for consideration in connection with that person's next application for continued registration;

(b) to cancel that person's registration.

(2B) If the registered person mentioned in subsection (2) is no longer registered, the First-tier Tribunal may direct the Commissioner to record the charge and the First-tier Tribunal's decision on it for consideration in connection with any application by that person for registration."

(2) In paragraph 5(3) of Schedule 5 (complaints which may be investigated by Commissioner)—

(a) before paragraph (a) insert—

"(za) the competence or fitness to provide immigration advice or immigration services of a person who, at the time to which the complaint relates, was a registered person,";

(b) in paragraph (a) for "a person" substitute "any other person";

(c) after paragraph (a) insert—

"(aa) the competence or fitness of a person who, at the time to which the complaint relates, was acting on behalf of a registered person,";

(d) in paragraph (b) for the first "a person" substitute "any other person";

(e) in paragraph (d) for "a person to whom they apply" substitute "a person who, at the time to which the complaint relates, was a registered person or a person acting on behalf of a registered person".

(3) For paragraph 9(1)(a) of that Schedule (Commissioner's powers on determining a complaint) substitute—

"(a) if the person to whom the complaint relates was at the time to which the complaint relates—

(i) a registered person, or

(ii) a person acting on behalf of a registered person,

record the complaint and the decision on it to be considered in connection with the next relevant application;".

(4) After paragraph 9(1) insert—

"(1A) In sub-paragraph (1)(a) "relevant application" means—

(a) if the registered person referred to in that sub-paragraph is still registered, an application by that person for continued registration, and

(b) otherwise, an application by that person for registration."

(5) For paragraph 9(4) substitute—

"(4) Relevant person" means—

(a) a person who, at the time to which the charge relates, was providing immigration advice or immigration services and was—

(i) a registered person, or

(ii) a person acting on behalf of a registered person;

(b) a person providing immigration advice or immigration services who is—

(i) a person to whom section 84(4)(d) applies, or

(ii) a person employed by, or working under the supervision of, such a person."

Power of entry and inspection

8 (1) Omit paragraph 7 of Schedule 5 (and the cross-heading before it).

(2) After paragraph 10 of that Schedule insert—

"Power of entry and inspection

10A (1) On an application made by the Commissioner a justice of the peace (or in Scotland, the sheriff) may issue a warrant authorising the Commissioner to enter premises.

(2) A justice of the peace or sheriff may issue a warrant in respect of premises if satisfied that there are reasonable grounds for believing that—

(a) the premises are being used, or have been used, in connection with the provision of immigration advice or immigration services by a registered person,

(b) entry to the premises is reasonably required for the exercise of any of the Commissioner's functions, and

(c) entry to the premises may be prevented or delayed unless a warrant is produced.

(3) The Commissioner may enter premises by virtue of this paragraph only at a reasonable hour.

(4) Where the Commissioner enters premises by virtue of this paragraph the Commissioner may—

(a) take onto the premises any equipment that appears to the Commissioner to be necessary;

(b) require any person on the premises to produce any relevant document and, if the document is produced, to provide any explanation of it;

(c) require any person on the premises to state, to the best of the person's knowledge and belief, where any relevant document is to be found;

(d) take copies of, or extracts from, any relevant document on the premises which is produced;

(e) require any relevant information which is held in a computer and is accessible from the premises to be produced in a form—

(i) in which it can be taken away; and

(ii) in which it is visible and legible.

(5) For the purposes of sub-paragraph (4), a document or information is "relevant" if the document or information relates to any matter connected with the provision of immigration advice or immigration services.

(6) The powers conferred on the Commissioner by sub-paragraphs (1) to (5) may also be exercised by—

(a) a member of the Commissioner's staff authorised by the Commissioner in writing, and

(b) if the Commissioner so determines, a person appointed by the Commissioner to make a report on the provision of immigration advice or immigration services from the premises in question.

(7) If a registered person fails without reasonable excuse to allow access under this paragraph to any premises under the person's occupation or control, the Commissioner may cancel the person's registration.

(8) The Commissioner may also cancel the registration of a registered person who—

(a) without reasonable excuse fails to comply with a requirement imposed under sub-paragraph (4);

(b) intentionally delays or obstructs any person exercising functions under this paragraph; or

(c) fails to take reasonable steps to prevent an employee of the registered person from obstructing any person exercising such functions.

(9) In this paragraph "premises" includes premises used wholly or partly as a dwelling."

SCHEDULE 8

Section 67

EMBARKATION CHECKS

PART 1

FUNCTIONS EXERCISABLE BY DESIGNATED PERSONS

Introduction

1 Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended in accordance with this Part of this Schedule.

Examinations by designated person

2 (1) Paragraph 3 is amended as follows.

(2) In sub-paragraph (1), after "immigration officer" insert "or designated person".

(3) For sub-paragraph (1A) substitute—

"(1A) If a person is examined under sub-paragraph (1) (whether by an immigration officer or designated person), an immigration officer may require the person, by notice in writing, to submit to further examination by the immigration officer for a purpose specified in that sub-paragraph.".

Information and documents

3 (1) Paragraph 4 is amended as follows.

(2) In sub-paragraph (1), for "his functions" substitute "that or any other person's functions".

(3) In sub-paragraph (2)—

(a) for "shall, if so required by the immigration officer" substitute ", or on his examination under paragraph 3 above by a designated person, shall, if so required by an immigration officer or designated person";

(b) in paragraph (b), for "the immigration officer" substitute "the immigration officer or designated person";

(c) in the words after paragraph (b), for "the immigration officer" substitute "the immigration officer or designated person".

(4) In sub-paragraph (3), for the words from "the immigration officer" to the second "officer" substitute "an immigration officer or a person acting under the directions of an immigration officer".

(5) In sub-paragraph (4), in the words before paragraph (a)—

(a) for "produced or found" substitute "produced to or found by an immigration officer";

(b) for "an immigration officer" substitute ", the immigration officer".

(6) After sub-paragraph (4) insert—

"(4A) Where a passport or other document is produced to a designated person in accordance with this paragraph, the designated person—

(a) may examine it and detain it; and

(b) must deliver any detained passport or document to an immigration officer as soon as reasonably practicable.

(4B) If a passport or document is delivered to an immigration officer in accordance with sub-paragraph (4A)(b), sub-paragraph (4) applies as if the immigration officer had detained the document (and, accordingly, the immigration officer may continue to detain it in accordance with sub-paragraph (4)(a), (b) or (c)).".

(7) In sub-paragraph (5), after "examination" insert ", or any immigration officer or designated person,".

Embarkation cards

4 (1) Paragraph 5 is amended in accordance with sub-paragraphs (2) and (3).

(2) For "requiring passengers" substitute "requiring—

(a) passengers".

(3) For "cards in such form" substitute "cards, and

(b) passengers embarking in the United Kingdom, or any class of such passengers, to produce to a designated person, if so required, embarkation cards,

in such form".

Designations

5 After paragraph 5 insert—

"Designated persons

5A (1) In this Schedule "designated person" means a person designated by the Secretary of State for the purposes of this Schedule.

(2) A designation under this paragraph is subject to such limitations as may be specified in the designation.

(3) A limitation under sub-paragraph (2) may, in particular, relate to the functions that are exercisable by virtue of the designation (and, accordingly, the exercise of functions under this Schedule by a designated person is subject to any such limitations specified in the person's designation).

(4) A designation under this paragraph—

(a) may be permanent or for a specified period,

(b) may (in either case) be withdrawn, and

(c) may be varied.

(5) The power to designate, or to withdraw or vary a designation, is exercised by the Secretary of State giving notice to the person in question.

(6) The Secretary of State may designate a person under this paragraph only if the Secretary of State is satisfied that the person—

(a) is capable of effectively carrying out the functions that are exercisable by virtue of the designation,

(b) has received adequate training in respect of the exercise of those functions, and

(c) is otherwise a suitable person to exercise those functions.”.

Directions to carriers and operators of ports

6 After paragraph 5A (inserted by paragraph 5 above) insert—

“Directions to carriers and operators of ports etc

5B (1) The Secretary of State may direct—

(a) an owner or agent of a ship or aircraft, or

(b) a person concerned in the management of a port,

to make arrangements for designated persons to exercise a specified function, or a function of a specified description, in relation to persons of a specified description.

(2) A direction under this paragraph must specify—

(a) the port where, and

(b) the date (or dates) and time (or times) when,

a function is to be exercised under the arrangements.

(3) A direction under this paragraph must be in writing.

(4) A direction under this paragraph may specify a description of persons by reference, in particular, to—

(a) the destination to which persons are travelling;

(b) the route by which persons are travelling;

(c) the date and time when the persons are travelling.

(5) In this paragraph—

“function” means a function under this Schedule;

“specified” means specified in a direction under this paragraph.”.

PART 2

OTHER PROVISION

Offences

7 (1) Section 27 of the Immigration Act 1971 (offences by persons connected with ships or aircraft or with ports) is amended as follows.

(2) In paragraph (b)—

(a) after sub-paragraph (iii) insert—

"(iiia) he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2; or";

(b) in sub-paragraph (iv) for "a requirement" substitute "any other requirement".

(3) After paragraph (c) insert—

"(ca) if as a person concerned in the management of a port he fails, without reasonable excuse, to comply with a direction under paragraph 5B of Schedule 2.".

SCHEDULE 9

Section 73

TRANSITIONAL AND CONSEQUENTIAL PROVISION

PART 1

PROVISION RELATING TO REMOVAL

Immigration Act 1971 (c. 77)

1 In Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc), in paragraph 11, after "immigration officer" insert "or the Secretary of State".

Special Immigration Appeals Commission Act 1997 (c. 68)

2 In section 2 of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals), in subsection (2), after paragraph (c) insert—

"(ca) section 78A of that Act (restriction on removal of children and their parents),".

Nationality, Immigration and Asylum Act 2002 (c. 41)

3 (1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.

(2) In section 62 (detention by Secretary of State)—

(a) in subsection (1)—

(i) in paragraph (a), after "under" insert "section 10 of the Immigration and Asylum Act 1999 (removal of persons unlawfully in the United Kingdom) or";

(ii) in paragraph (b), for "paragraphs" substitute "provisions";

(b) in subsection (2), for "that Act" substitute "the Immigration Act 1971";

(c) omit subsections (5) and (6).

(3) In section 76 (revocation of leave to enter or remain)—

(a) in subsection (2), omit paragraphs (b) and (c);

(b) in subsection (4), omit the definition of "removed".

Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c.19)

4 In section 8(7) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (claimant's credibility; definitions), in paragraph (d) of the definition of "immigration decision", omit "(1)(a), (b), (ba) or (c)".

Immigration, Asylum and Nationality Act 2006 (c. 13)

5 In the Immigration, Asylum and Nationality Act 2006, section 47 (removal of persons with statutorily extended leave) is repealed.

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

6 In Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services), in paragraph 19(10), in the definition of "removal directions", omit paragraph (e).

Consequential repeals

7 The provisions shown in the table below are repealed in consequence of the amendments made by section 1 and this Part of this Schedule.

Title	*Extent of repeal*
Nationality, Immigration and Asylum Act 2002	Section 73(2) to (4).
	Section 74.
	Section 75(4).
	Section 76(7).
Immigration, Asylum and Nationality Act 2006	Section 48.
Crime and Courts Act 2013	Section 51(3).
Immigration Act 2014	In Schedule 1, paragraph 2(3) and (4).

PART 2

PROVISION RELATING TO DETENTION AND BAIL

Prison Act 1952 (c. 52)

8 (1) Section 5A of the Prison Act 1952 (appointment and functions of Her Majesty's Chief Inspector of Prisons) is amended as follows.

(2) In subsection (5A)—

(a) omit "and" at the end of paragraph (b);

(b) after paragraph (b) insert—

"(ba) in relation to pre-departure accommodation within the meaning of that section, and".

(3) In subsection (5B)—

(a) in paragraph (a), after "facilities" insert ", accommodation";

(b) in paragraph (b)(i), after "facilities" insert ", pre-departure accommodation".

Immigration Act 1971 (c. 77)

9 In Schedule 3 to the Immigration Act 1971 (supplementary provisions as to deportation), in paragraph 3, for "33" substitute "33A".

Special Immigration Appeals Commission Act 1997 (c. 68)

10 (1) The Special Immigration Appeals Commission Act 1997 is amended as follows.

(2) In section 5 (procedure in relation to SIAC's jurisdiction on appeals and bail), after subsection (5) insert—

"(5A) Rules under this section must secure that, where the Commission has decided not to release a person on bail under paragraph 22 or 29 of Schedule 2 to the Immigration Act 1971, the Commission is required to dismiss any further application by the person for release on bail that is made during the period of 28 days starting with the date of the Commission's decision, unless there has been a material change in circumstances."

(3) In Schedule 3 (bail: modifications of Schedule 2 to the Immigration Act 1971), in paragraph 4, after sub-paragraph (1) insert—

"(1A) In sub-paragraph (1) after "2002" there shall be inserted "or section 2 of the Special Immigration Appeals Commission Act 1997 or a review pending under section 2E of that Act."

Northern Ireland Act 1998 (c. 47)

11 In section 69C of the Northern Ireland Act 1998 (investigations: places of detention), in subsection (3)(g), for "or short-term holding facility" substitute ", a short-term holding facility or pre-departure accommodation".

Immigration and Asylum Act 1999 (c. 33)

12 (1) The Immigration and Asylum Act 1999 is amended as follows.

(2) In Schedule 11 (detainee custody officers)—

(a) in the heading above paragraph 3, at the end insert "and pre-departure accommodation";

(b) in paragraph 3—

(i) in sub-paragraph (1), after "facility" insert "or in pre-departure accommodation";

(ii) in sub-paragraph (2), after "facility" (in both places) insert "or accommodation";

(c) in paragraph 4(c), after "facility" insert "or in pre-departure accommodation";

(d) in paragraph 5(c), after "facility" insert "or in pre-departure accommodation".

(3) In Schedule 12 (discipline etc at removal centres)—

(a) in paragraph 4 (assisting detained persons to escape)—

(i) in sub-paragraph (1), for "or short-term holding facility" substitute ", a short-term holding facility or pre-departure accommodation";

(ii) in the opening words of sub-paragraph (2), for "or short-term holding facility" substitute ", a short-term holding facility or pre-departure accommodation";

(iii) in sub-paragraph (2)(a), for "or facility" substitute ", facility or accommodation";

(iv) in sub-paragraph (2)(b), for "or facility" substitute ", facility or accommodation";

(v) in sub-paragraph (2)(c), for "or facility" substitute ", facility or accommodation";

(b) in paragraph 8 (notice of penalties)—

(i) in sub-paragraph (1), after "facility" insert "or contracted out pre-departure accommodation";

(ii) in sub-paragraph (2), after "facility" insert "or pre-departure accommodation".

Nationality, Immigration and Asylum Act 2002 (c. 41)

13 In section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State), in subsection (3), after paragraph (a) insert—

"(aa) a reference in paragraph 18B of that Schedule to an immigration officer shall be read as a reference to the Secretary of State,".

Safeguarding Vulnerable Groups Act 2006 (c. 47)

14 In section 59 of the Safeguarding Vulnerable Groups Act 2006 (vulnerable adults), in subsection (7)(d), after "facility" insert "or in pre-departure accommodation".

Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)

15 In section 2 of the Corporate Manslaughter and Corporate Homicide Act 2007 (meaning of "relevant duty of care")—

(a) in subsection (2)(b), for "or short-term holding facility" substitute ", a short-term holding facility or in pre-departure accommodation";

(b) in subsection (7), for "and "short-term holding facility"" substitute ", "short-term holding facility" and "pre-departure accommodation"".

UK Borders Act 2007 (c. 30)

16 In section 48 of the UK Borders Act 2007 (establishment of border and immigration inspectorate), in subsection (2A)(a), after "facilities" insert "and in pre-departure accommodation".

PART 3

PROVISION RELATING TO BIOMETRICS

Immigration and Asylum Act 1999 (c. 33)

17 (1) The Immigration and Asylum Act 1999 is amended as follows.

(2) Section 143 (destruction of fingerprints) is repealed.

(3) In section 144(1) (power to make provision about other biometric information) for ", 142 and 143" substitute "and 142".

(4) Omit section 166(4)(g) (Parliamentary procedure for orders under section 143).

Anti-terrorism, Crime and Security Act 2001 (c. 24)

18 Section 36 of the Anti-terrorism, Crime and Security Act 2001 (which amends section 143 of the Immigration and Asylum Act 1999) is repealed.

Nationality, Immigration and Asylum Act 2002 (c. 41)

19 In section 126 of the Nationality, Immigration and Asylum Act 2002 (power to require provision of physical data with certain immigration applications) omit—

(a) the "or" at the end of subsection (2)(b),

(b) subsection (4)(g), and

(c) subsection (5).

PART 4

PROVISION RELATING TO APPEALS

Immigration Act 1971 (c. 77)

20 The Immigration Act 1971 is amended as follows.

21 (1) Section 3C (continuation of leave pending variation decision) is amended as follows.

(2) In subsection (2)—

(a) omit the "or" at the end of paragraph (b);

(b) after paragraph (c) insert ", or

(d) an administrative review of the decision on the application for variation—

(i) could be sought, or

(ii) is pending."

(3) After subsection (6) insert—

"(7) In this section—

"administrative review" means a review conducted under the immigration rules;

the question of whether an administrative review is pending is to be determined in accordance with the immigration rules."

22 (1) Section 3D (continuation of leave following revocation) is amended as follows.

(2) In subsection (2)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (b) insert, "or

(c) an administrative review of the variation or revocation—

(i) could be sought, or

(ii) is pending."

(3) After subsection (4) insert—

"(5) In this section—

"administrative review" means a review conducted under the immigration rules;

the question of whether an administrative review is pending is to be determined in accordance with the immigration rules."

23 In Schedule 2 (administrative provisions as to control on entry etc), in paragraph 2A(9), for "(immigration and asylum appeals)" substitute "(appeals in respect of protection and human rights claims)".

24 In Schedule 3 (supplementary provisions as to deportation), in paragraph 3, for the words from "of the kind" to "order)" substitute "that relates to a deportation order".

British Nationality Act 1981 (c. 61)

25 In section 40A of the British Nationality Act 1981 (deprivation of citizenship: appeal), in subsection (3)—

(a) omit ", 83 or 83A";

(b) omit paragraph (a).

Special Immigration Appeals Commission Act 1997 (c. 68)

26 (1) The Special Immigration Appeals Commission Act 1997 is amended as follows.

(2) In section 2 (jurisdiction: appeals)—

(a) in subsection (1)(a), omit ", 83(2) or 83A(2)";

(b) in subsection (1)(b), omit ", 83(2) or 83A(2)";

(c) in subsection (2), omit paragraphs (d), (h) and (l);

(d) omit subsections (3) and (4);

(e) in subsection (5), omit "against an immigration decision";

(f) omit subsection (6).

(3) In section 2B (appeal to SIAC against deprivation of citizenship), omit the words from "(and" to the end.

(4) In section 6A (procedure in relation to review jurisdiction)—

(a) in the heading, for "and 2D" substitute "to 2E";

(b) in subsection (1), for "or 2D" substitute ", 2D or 2E";

(c) in subsection (2)—

(i) in paragraph (a), for "or 2D" substitute ", 2D or 2E";

(ii) in paragraph (b), for "or (as the case may be) 2D(2)" substitute ", 2D(2) or (as the case may be) 2E(2)".

(5) In section 7 (appeals from the Commission), in subsection (1A), for "or 2D" substitute ", 2D or 2E".

Immigration and Asylum Act 1999 (c. 33)

27 The Immigration and Asylum Act 1999 is amended as follows.

28 Section 23 (monitoring refusals of entry clearance) is repealed.

29 (1) Section 141 (fingerprinting) is amended as follows.

(2) In subsection (7)—

(a) for paragraph (c) substitute—

"(c) any person ("C") in respect of whom the Secretary of State has decided—

(i) to make a deportation order, or

(ii) that section 32(5) of the UK Borders Act 2007 (automatic deportation of foreign criminals) applies;

(ca) any person ("CA") who requires leave to enter or remain in the United Kingdom but does not have it;";

(b) in paragraph (f), for the words from "paragraph (c)" to the end substitute "paragraph (c)(ii)".

(3) In subsection (8), for paragraph (c) substitute—

"(c) for C, when he is notified of the decision mentioned in subsection (7)(c);

(ca) for CA, when he becomes a person to whom this section applies;".

(4) In subsection (9)—

(a) in paragraph (b), after "C" insert ", CA";

(b) in paragraph (c)(i) for "relevant immigration decision" substitute "decision mentioned in subsection (7)(c)";

(c) after paragraph (c) insert—

"(ca) for CA, when he no longer requires leave to enter or remain in the United Kingdom;".

(5) Omit subsection (16).

Nationality, Immigration and Asylum Act 2002 (c. 41)

30 The Nationality, Immigration and Asylum Act 2002 is amended as follows.

31 In section 72 (serious criminal), in subsection (9)(a)—

(a) omit “, 83, 83A or 101”;

(b) for the words from “that to remove him” to the end substitute “mentioned in section 84(1)(a) or (3)(a) of this Act (breach of the United Kingdom’s obligations under the Refugee Convention), and”.

32 In section 79 (deportation order: appeal), in subsection (1) for “against” substitute “that may be brought or continued from within the United Kingdom relating to”.

33 For the heading to Part 5, substitute “Appeals in respect of Protection and Human Rights Claims”.

34 In section 85 (matters to be considered)—

(a) in subsection (2), for “84(1)” substitute “84”;

(b) in subsection (4)—

(i) omit “, 83(2) or 83A(2)”;

(ii) omit “evidence about”;

(iii) omit “evidence which concerns”.

35 Section 85A (matters to be considered: new evidence: exceptions) is repealed.

36 In section 86 (determination of appeal)—

(a) in subsection (1), omit “, 83 or 83A”;

(b) in subsection (2), omit “(whether or not by virtue of section 85(1))”;

(c) omit subsections (3) to (6).

37 Sections 87 to 91 are repealed.

38 (1) Section 94 (appeal from within the United Kingdom) is amended as follows.

(2) In the heading, for “asylum” substitute “protection”.

(3) For subsections (1) to (2) substitute—

“(1) The Secretary of State may certify a protection claim or human rights claim as clearly unfounded.”

(4) In subsection (3)—

(a) for “an asylum claimant or human rights” substitute “a”;

(b) for “subsection (2)” substitute “subsection (1)”.

(5) In subsection (6A) for “an asylum claimant or human rights” substitute “a”.

(6) In subsection (7), for the words from the beginning to “certifies that” substitute “The Secretary of State may certify a protection claim or human rights claim made by a person if”.

(7) In subsection (8)(b), at the end insert “or with the United Kingdom’s obligations in relation to persons eligible for a grant of humanitarian protection”.

(8) Omit subsection (9).

39 In section 94A (European Common List of Safe Countries of Origin)—

(a) in subsection (2), for “an asylum claim” substitute “a protection claim”;

(b) in subsection (4) for "94(2)" substitute "94(1)".

40 Section 95 (appeal from outside the United Kingdom: removal) is repealed.

41 (1) Section 96 (earlier right of appeal) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, for the words from the beginning to "brought" substitute "A person may not bring an appeal under section 82 against a decision ("the new decision")";

(b) in paragraph (a), omit "immigration";

(c) in paragraph (b) for "matter" substitute "ground";

(d) in paragraph (c) for "matter" substitute "ground".

(3) For subsection (2) substitute—

"(2) A person may not bring an appeal under section 82 if the Secretary of State or an immigration officer certifies—

(a) that the person has received a notice under section 120(2),

(b) that the appeal relies on a ground that should have been, but has not been, raised in a statement made under section 120(2) or (5), and

(c) that, in the opinion of the Secretary of State or the immigration officer, there is no satisfactory reason for that ground not having been raised in a statement under section 120(2) or (5)."

42 In section 97 (national security etc)—

(a) in subsection (1), omit ", 83(2) or 83A(2)";

(b) in subsection (3), omit ", 83(2) or 83A(2)".

43 In section 97A (national security: deportation)—

(a) in subsection (2B), for the words from "breach" to the end substitute "be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention)";

(b) omit subsections (2D), (2E) and (3).

44 Section 97B (variation of leave on grounds of public good: rights of appeal) is repealed.

45 Section 98 (other grounds of public good) is repealed.

46 In section 99—

(a) in the heading, for "Sections 97 and 98" substitute "Section 97";

(b) in subsection (1), omit "or 98".

47 (1) Section 104 (pending appeal) is amended as follows.

(2) Omit subsection (4).

(3) In subsection (4A), for "subsections (4B) and (4C)" substitute "subsection (4B)".

(4) In subsection (4B)—

(a) for "the ground relating to the Refugee Convention specified in section 84(1)(g)" substitute "a ground specified in section 84(1)(a) or (b) or 84(3) (asylum or humanitarian protection)";

(b) omit paragraph (a) (and the "and" immediately following it).

(5) Omit subsections (4C) and (5).

48 (1) Section 105 (notice of immigration decision) is amended as follows.

(2) In subsection (1), for "immigration" substitute "appealable".

(3) In subsection (2)—

(a) in the opening words, for "a decision against which the person is entitled to appeal under section 82(1)" substitute "an appealable decision";

(b) in paragraph (a) for "that section" substitute "section 82".

(4) At the end insert—

"(4) In this section "appealable decision" means a decision mentioned in section 82(1)."

49 In section 106 (rules)—

(a) in subsection (3), omit ", 83 or 83A";

(b) in subsection (4), omit ", 83 or 83A".

50 In section 107 (practice directions), in subsection (3), omit ", 83 or 83A".

51 In section 108 (forged documents: proceedings in private), in subsection (1)(a), omit ", 83 or 83A".

52 In section 112 (regulations etc)—

(a) omit subsection (3A);

(b) in subsection (4), omit "or 115(8)";

(c) in subsection (5), omit "or 115(9)".

53 (1) Section 113 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of "human rights claim"—

(i) after "Kingdom" insert "or to refuse him entry into the United Kingdom";

(ii) omit "as being incompatible with his Convention rights";

(b) at the appropriate places insert—

""humanitarian protection" has the meaning given in section 82(2);"

""protection claim" has the meaning given in section 82(2)";

""protection status" has the meaning given in section 82(2)";

(c) omit the definitions of "entry clearance", "illegal entrant", "prescribed", "visitor" and "work permit";

(d) in the definition of "immigration rules", for "that Act" substitute "the Immigration Act 1971".

(3) Omit subsection (2).

54 Section 115 (appeal from within United Kingdom: unfounded human rights or asylum claim: transitional provision) is repealed.

55 For section 120 (requirement to state additional grounds for application) substitute—

"**120 Requirement to state additional grounds for application etc**

(1) Subsection (2) applies to a person ("P") if—

(a) P has made a protection claim or a human rights claim,

(b) P has made an application to enter or remain in the United Kingdom, or

(c) a decision to deport or remove P has been or may be taken.

(2) The Secretary of State or an immigration officer may serve a notice on P requiring P to provide a statement setting out—

(a) P's reasons for wishing to enter or remain in the United Kingdom,

(b) any grounds on which P should be permitted to enter or remain in the United Kingdom, and

(c) any grounds on which P should not be removed from or required to leave the United Kingdom.

(3) A statement under subsection (2) need not repeat reasons or grounds set out in—

(a) P's protection or human rights claim,

(b) the application mentioned in subsection (1)(b), or

(c) an application to which the decision mentioned in subsection (1)(c) relates.

(4) Subsection (5) applies to a person ("P") if P has previously been served with a notice under subsection (2) and—

(a) P requires leave to enter or remain in the United Kingdom but does not have it, or

(b) P has leave to enter or remain in the United Kingdom only by virtue of section 3C or 3D of the Immigration Act 1971 (continuation of leave pending decision or appeal).

(5) Where P's circumstances have changed since the Secretary of State or an immigration officer was last made aware of them (whether in the application or claim mentioned in subsection (1) or in a statement under subsection (2) or this subsection) so that P has—

(a) additional reasons for wishing to enter or remain in the United Kingdom,

(b) additional grounds on which P should be permitted to enter or remain in the United Kingdom, or

(c) additional grounds on which P should not be removed from or required to leave the United Kingdom,

P must, as soon as reasonably practicable, provide a supplementary statement to the Secretary of State or an immigration officer setting out the new circumstances and the additional reasons or grounds.

(6) In this section—

"human rights claim" and "protection claim" have the same meanings as in Part 5;

references to "grounds" are to grounds on which an appeal under Part 5 may be brought (see section 84)."

Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19)

56 (1) Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (removal of asylum seeker to safe third country) is amended as follows.

(2) In paragraph 1, at the end insert—

"(3) Section 92 of the Nationality, Immigration and Asylum Act 2002 makes further provision about the place from which an appeal relating to an asylum or human rights claim may be brought or continued."

(3) In paragraph 5—

(a) omit sub-paragraph (2);

(b) in sub-paragraph (3), for the words from "by virtue of" to "rights)" substitute "from within the United Kingdom";

(c) in sub-paragraph (4), for "by virtue of section 92(4)(a) of that Act" substitute "from within the United Kingdom".

(4) In paragraph 10—

(a) omit sub-paragraph (2);

(b) in sub-paragraph (3), for the words from "by virtue of" to "rights)" substitute "from within the United Kingdom";

(c) in sub-paragraph (4), for "by virtue of section 92(4)(a) of that Act" substitute "from within the United Kingdom".

(5) In paragraph 15—

(a) omit sub-paragraph (2);

(b) in sub-paragraph (3), for the words from "by virtue of" to "rights)" substitute "from within the United Kingdom";

(c) in sub-paragraph (4), for "by virtue of section 92(4)(a) of that Act" substitute "from within the United Kingdom".

(6) In paragraph 19—

(a) omit paragraph (a);

(b) in paragraph (b), for the words from "by virtue of" to "rights)" substitute "from within the United Kingdom";

(c) in paragraph (c), for "by virtue of section 92(4)(a) of that Act" substitute "from within the United Kingdom".

Immigration, Asylum and Nationality Act 2006 (c. 13)

57 (1) The Immigration, Asylum and Nationality Act 2006 is amended as follows.

(2) In section 12(3) (new definition of human rights claims), in paragraph (a) of the definition of "human rights claim"—

(a) after "Kingdom" insert "or to refuse him entry into the United Kingdom";

(b) omit "as being incompatible with his Convention rights".

(3) Section 13 (appeal from within the United Kingdom: certification of unfounded claim) is repealed.

(4) In section 55 (Refugee Convention: certification), in subsection (2)(a)—

(a) in sub-paragraph (i), omit ", 83 or 101";

(b) for sub-paragraph (ii) substitute—

"(ii) which is brought on the ground mentioned in section 84(1)(a) or (3)(a) of that Act (breach of United Kingdom's obligations under the Refugee Convention);".

(5) In Schedule 1 (consequential amendments) paragraph 11 (amendment to section 112(5) of the 2002 Act) is repealed.

UK Borders Act 2007 (c. 30)

58 In section 17 of the UK Borders Act 2007 (support for failed asylum-seekers), in subsection (2)—

(a) in paragraph (a), omit "against an immigration decision";

(b) in paragraph (b), omit "against an immigration decision".

Equality Act 2010 (c. 15)

59 In section 115 of the Equality Act 2010 (immigration cases), in subsection (8) after "2D" insert "and 2E".

Consequential repeals

60 The provisions shown in the table below are repealed in consequence of the amendments made by sections 15 to 18 and this Part of this Schedule.

Title	*Extent of repeal*
Nationality, Immigration and Asylum Act 2002	In Schedule 7, paragraph 27.
Asylum and Immigration (Treatment of Claimants, etc) Act 2004	Section 15(2), (3) and (5).
	Section 26(2) and (3).
	Section 27(2) and (3).
	Sections 28 and 29.
	Section 31.
	In Schedule 2, paragraphs 18(2)(c) and 19.
Immigration, Asylum and Nationality Act 2006	Sections 1 to 6.
	Section 11(6).
	Section 47(6) to (8).
	Section 57(2).
	In Schedule 1, paragraphs 2 to 6, 10, 11, 13, 14(a) and (c).
UK Borders Act 2007	Section 19.
	Section 35(3).
Borders, Citizenship and Immigration Act 2009	Section 51(3).

Title	*Extent of repeal*
Crime and Courts Act 2013	Section 51(1). Sections 52 and 53.

PART 5

PROVISION RELATING TO EMPLOYMENT

Immigration, Asylum and Nationality Act 2006 (c. 13)

61 In section 15 of the Immigration, Asylum and Nationality Act 2006 (penalty), in subsection (6)(e), after "penalty" insert "or make an appeal against it".

PART 6

PROVISION RELATING TO DRIVING LICENCES

Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))

62 In Article 5 of the Road Traffic (Northern Ireland) Order 1981 (tests of competence to drive)—

(a) in paragraph (1), omit "meets the relevant residence requirement and";

(b) omit paragraph (1A);

(c) in paragraph (4)(aa) for "normally resident in Northern Ireland or the United Kingdom" insert "normally and lawfully resident in Northern Ireland or the United Kingdom (within the meaning of Article 13A)".

Road Traffic Act 1988 (c. 52)

63 In section 89 of the Road Traffic Act 1988 (tests of competence to drive)—

(a) in subsection (1), omit "meets the relevant residence requirement and";

(b) omit subsection (1A);

(c) in subsection (4)(aa) for "normally resident in Great Britain or the United Kingdom" substituted "normally and lawfully resident in Great Britain or the United Kingdom (within the meaning of section 97A)".

Road Safety Act 2006 (c. 49)

64 In Schedule 3 to the Road Safety Act 2006 (endorsement: all drivers), in paragraph 9—

(a) after sub-paragraph (3) insert—

"(3A) In subsection (3ZA), omit "and its counterpart"."";

(b) in sub-paragraph (6A)(b), at the end insert "in both places".

Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10))

65 In Schedule 5 to the Road Traffic (Northern Ireland) Order 2007 (endorsement: all drivers: consequential amendments), in paragraph 6, after sub-paragraph (a) insert—

"(aa) in paragraph (5ZA), omit "and its counterpart"."

PART 7

PROVISION RELATING TO MARRIAGE AND CIVIL PARTNERSHIP

Transitional provision

66 The provisions of sections 48 to 51, and the amendments made by Schedule 4, apply only to proposed marriages and civil partnerships in respect of which notice under section 27 of the Marriage Act 1949 or under section 8 of the Civil Partnership Act 2004 is given after the day on which the provisions and amendments come into force.

PART 8

PROVISION RELATING TO IMMIGRATION ADVISERS AND IMMIGRATION SERVICE PROVIDERS

Transitional provision

67 (1) On the day on which paragraph 2 of Schedule 7 comes into force the Immigration Services Commissioner must register in the register maintained under section 85(1) of the Immigration and Asylum Act 1999 each person who, immediately before that day, was an exempt person (within the meaning given by section 84(4)(a) of that Act).

(2) The registration of a person by reason of sub-paragraph (1) may be made so as to have effect only in relation to a specified field of advice or services.

68 (1) In the provisions listed in sub-paragraph (2)—

(a) references to a person who, at the time to which a charge or (as the case may be) a complaint relates, was a registered person do not include a person who ceased to be a registered person before the day on which paragraph 7 of Schedule 7 comes into force;

(b) references to a person who, at the time to which a charge or (as the case may be) a complaint relates, was acting on behalf of a registered person do not include—

(i) a person who ceased to act on behalf of a registered person before that day;

(ii) a person who was acting on behalf of a person who ceased to be a registered person before that day.

(2) The provisions are—

(a) section 89(2) to (2B) of the Immigration and Asylum Act 1999;

(b) paragraph 5(3)(za), (aa) and (d) of Schedule 5 to that Act;

(c) paragraph 9(1)(a), (1A) and (4)(a) of Schedule 5 to that Act.

69 (1) The provisions listed in paragraph 68(2) (apart from paragraph 5(3)(d) of Schedule 5 to the Immigration and Asylum Act 1999) apply in relation to a person who—

(a) was an exempt person immediately before the day on which paragraph 2 of Schedule 7 comes into force, and

(b) became a registered person on that day by virtue of paragraph 67(1),

as if, while the person was an exempt person, the person had been a registered person.

(2) In paragraph 10A(2)(a) of Schedule 5 to the Immigration and Asylum Act 1999, the reference to premises which have been used in connection with the provision of immigration advice or immigration services by a registered person includes premises which have been so used by an exempt person.

(3) In this paragraph "exempt person" has the meaning given by section 84(4)(a) of the Immigration and Asylum Act 1999.

PART 9

PROVISION RELATING TO PERSONS UNABLE TO ACQUIRE NATIONALITY BECAUSE NATURAL FATHER NOT MARRIED TO MOTHER

British Nationality Act 1981

70 (1) The British Nationality Act 1981 is amended as follows.

(2) In section 14 (meaning of "British citizen "by descent""), in subsection (1), after paragraph (d) insert—

"(da) the person is a British citizen by descent by virtue of section 4F(3), 4G(2), 4H(2) or 4I(4); or".

(3) In section 41A (registration: requirement to be of good character), in subsection (1), after "4D," insert "4F, 4G, 4H, 4I".

British Nationality (General) Regulations 2003

71 (1) In regulation 14 of the British Nationality (General) Regulations 2003—

(a) after "4D(3)" insert "or 4G(3)";

(b) after "section 4D" insert "or 4G".

(2) The provision inserted into regulation 14 by this paragraph may be amended or revoked by the exercise of the powers conferred by section 41 of the British Nationality Act 1981 as if that provision had been inserted by those powers.

PART 10

PROVISION RELATING TO EMBARKATION CHECKS

Transitional provision

72 (1) Any order or direction under paragraph 5 of Schedule 2 to the Immigration Act 1971 that has effect immediately before commencement has, after commencement, the same effect in relation to the production of embarkation cards to designated persons as it has in relation to the production of such cards to immigration officers.

(2) This paragraph is subject to the exercise, after commencement, of the powers under paragraph 5 of Schedule 2 to the Immigration Act 1971.

(3) In this paragraph "commencement" means the day when the amendments made by Part 1 of Schedule 8 come into force.

PART 11

PROVISION RELATING TO FEES

Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19)

73 (1) Section 42 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (amount of fees) is amended as follows.

(2) Omit subsections (1) to (2A).

(3) For subsection (3A) substitute—

"(3A) The amount of a fee under section 1 of the Consular Fees Act 1980 in respect of a matter specified in subsection (3B) may be set so as to reflect costs referable to the exercise of any function in respect of which the Secretary of State has made an order under section 68 of the Immigration Act 2014.

(3B) The matters are—

(a) the determination of applications for entry clearances (within the meaning given by section 33(1) of the Immigration Act 1971),

(b) the determination of applications for transit visas under section 41 of the Immigration and Asylum Act 1999, or

(c) the determination of applications for certificates of entitlement to the right of abode in the United Kingdom under section 10 of the Nationality, Immigration and Asylum Act 2002."

(4) In subsection (4) omit "(1)(b) or".

(5) In subsection (7) omit from "(and any provision" to the end.

Immigration, Asylum and Nationality Act 2006 (c. 13)

74 Sections 51 and 52 of the Immigration, Asylum and Nationality Act 2006 (fees) are repealed.

UK Borders Act 2007 (c. 30)

75 For section 15(2)(b) of the UK Borders Act 2007 (application of certain provisions to applications for biometric immigration documents) substitute—

"(b) section 68 of the Immigration Act 2014 (fees);".

Consequential repeals

76 The following provisions are repealed in consequence of the amendments made by this Part of this Schedule—

(a) paragraph 6 of Schedule 2 to the Immigration, Asylum and Nationality Act 2006;

(b) section 20 of the UK Borders Act 2007.