

## SCHEDULE 2

### Saving and transitional provisions

## PART 3

### Saving provisions in relation to asylum

#### Regulation (EU) No 439/2010

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

#### Commencement Information

- II Sch. 2 para. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

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

9.—(1) This paragraph applies where—

- (a) a request is made to the UK before commencement day under Regulation (EU) No 604/2013 or Regulation (EC) No 1560/2003 to take charge or take back a person to whom, when the request is made, one of the Dublin Family Provisions applies; and
- (b) a final decision in relation to the request is not taken before commencement day.

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

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

- (a) Article 3 (processing requests for taking charge);
- (b) Article 4 (processing of requests for taking back);
- (c) Article 5(1) (negative reply);
- (d) Article 6 (positive reply);
- (e) Article 11(2) and (3) (situations of dependency).

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

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

- (a) Article 2 (definitions);
- (b) Article 6(1) (best interests of the child);
- (c) Article 22(1) to (5) (replying to a take charge request);
- (d) Article 25(1) (replying to a take back request).

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

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

*Changes to legislation: There are currently no known outstanding effects for the The Immigration, Nationality and Asylum (EU Exit) Regulations 2019, PART 3. (See end of Document for details)*

- (b) Article 22 is to be read as if paragraph (3) were omitted, but not sub-paragraphs (a)(i) and (b);
- (c) Article 25(1) is to be read as if, at the beginning, there were inserted “Except in a case where the take back request was not made within the periods laid down in paragraph 2 of Article 23 of this Regulation as it applied in the European Union immediately before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force,”.

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

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

**Commencement Information**

**I2** Sch. 2 para. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Eurodac**

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

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

- (a) Article 34(2), sub-paragraphs (a) to (d), (h) and (i) (data security);
- (b) Article 35(1) (prohibition of transfers of data to third countries etc.);
- (c) Article 36 (logging and documentation).

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

(4) For the purposes of paragraph (2), references to provisions in the Council Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are to be construed as references to relevant provisions in Part 3 of the Data Protection Act 2018 <sup>M1</sup>.

(5) In this paragraph—

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

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

**Commencement Information**

**I3** Sch. 2 para. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

**M1** 2018 c. 12.

#### Data transmitted to the UK before commencement day

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

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

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

- (a) Article 2 (definitions), so far as relevant to the provisions referred to in paragraph (b);
- (b) Article 34(9) and (11).

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

- (a) in the second sub-paragraph, for “this Regulation or Directive 95/46/EC” there were substituted “ this Regulation or the data protection legislation (within the meaning of section 3(9) of the Data Protection Act 2018 <sup>M2</sup>) as modified from time to time ”;
- (b) in the third sub-paragraph, “or receiving” were omitted.

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

#### Commencement Information

**I4** Sch. 2 para. 11 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

#### Marginal Citations

**M2** 2018 c. 12.

#### Data transmitted by the UK before commencement day

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

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

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

- (a) the last sentence were omitted;
- (b) the United Kingdom continued to be a member State.

#### Commencement Information

**I5** Sch. 2 para. 12 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1(2)

**Changes to legislation:**

There are currently no known outstanding effects for the The Immigration, Nationality and Asylum (EU Exit) Regulations 2019, PART 3.