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STATUTORY INSTRUMENTS

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**2017 No. 1241 (C. 117)**

**IMMIGRATION**

**The Immigration Act 2016 (Commencement No. 7 and Transitional Provisions) Regulations 2017**

*Made - - - - 7th December 2017*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 92(1), 93(6), 94(1) and (2) of, and paragraph 13(1) of Schedule 10 to, the Immigration Act 2016<sup>(1)</sup>.

**Citation and interpretation**

1.—(1) These Regulations may be cited as the Immigration Act 2016 (Commencement No. 7 and Transitional Provisions) Regulations 2017.

(2) In these Regulations—

“the 1999 Act” means the Immigration and Asylum Act 1999<sup>(2)</sup>;

“the 2016 Act” means the Immigration Act 2016.

**Provisions coming into force on 15th January 2018**

2. The following provisions of the 2016 Act come into force on 15th January 2018—

- (a) section 61(1) and (2) (immigration bail) except insofar as it relates to the provisions of Schedule 10 listed in sub-paragraphs (i) to (iv) of paragraph (c);
- (b) section 66 (support for certain categories of migrant) to the extent necessary to bring into force the provisions specified in paragraph (d);
- (c) Schedule 10 (immigration bail), except for—
  - (i) sub-paragraphs (2), (3) and (5) to (10) of paragraph 2 (conditions of immigration bail);
  - (ii) paragraph 7 (removal etc of electronic monitoring condition: bail managed by Secretary of State);
  - (iii) paragraph 8 (amendment etc of electronic monitoring condition: bail managed by First-tier Tribunal); and

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(1) 2016 c. 19.  
(2) 1999 c. 33.

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- (iv) paragraph 25 to the extent that it applies, in a modified form, the provisions set out in sub-paragraphs (i) to (iii) above;
- (d) in Schedule 11—
  - (i) paragraph 1 (abolition of power to support certain categories of migrant) to the extent that it repeals section 4(1) of the 1999 Act<sup>(3)</sup>;
  - (ii) paragraph 46 (transitional and saving provisions) so far as it relates to the repeal of section 4(1) of the 1999 Act.

### **Transitional provisions**

3. The Schedule to these Regulations, which contains transitional provisions, has effect.

7th December 2017

*Victoria Atkins*  
Parliamentary Under Secretary of State  
Home Office

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(3) Section 4 of the 1999 Act was amended by section 49(2) of the Nationality, Immigration and Asylum Act 2002 (c. 41) which renumbered section 4 as section 4(1) and inserted the sub-sections that follow it.

## SCHEDULE

Regulation 3

### Transitional Provisions

#### **Persons at large on the date on which Schedule 10 comes into force**

1.—(1) This paragraph applies to any person (“P”) to whom paragraph 13(1) of Schedule 10 to the 2016 Act applies on 20 November 2017.

(2) From that date P is to be treated, for the purposes of the provision by virtue of which paragraph 13(1) applies, instead as having been granted immigration bail under paragraph 1 of that Schedule.

(3) Any condition or restriction that was attached to P’s admission or release is to be treated as a condition of immigration bail imposed under paragraph 2 of Schedule 10 until such time as—

(a) the condition or restriction is varied under paragraph 6 of that Schedule (whereupon it will become a condition under paragraph 2 of that Schedule), or

(b) the grant of immigration bail ends in accordance with paragraph 1(8) of that Schedule (whereupon the condition or restriction will also end).

(4) If P has been granted immigration bail by a court or tribunal, then that bail is to be deemed to be a grant of immigration bail by the First-tier Tribunal under paragraph 1(3) of Schedule 10.

(5) If sub-paragraph (4) does not apply to P then P will be deemed to have been granted immigration bail by the Secretary of State under paragraph 1(1) or (2) of Schedule 10.

#### **The treatment of existing recognizances and bail bonds**

2.—(1) This paragraph applies where, before 20 November 2017, a person—

(a) entered into a recognizance either on his own behalf or as a surety for another, or

(b) in Scotland, entered into a bail bond on his own behalf or as cautioner for another,

in respect of a grant of bail under Schedule 2 to the 1971 Act, and is thereby liable, after 20 November 2017, to forfeit a sum of money in accordance with the terms of the recognizance or bail bond if a condition of that bail is breached.

(2) The recognizance or bail bond is to be treated for the purposes of Schedule 10 to the 2016 Act as if it were a “financial condition” as defined by paragraph 5(1) of that Schedule and as if it were imposed under paragraph 2 of that Schedule, notwithstanding the fact that it may not comply with the provisions of paragraph 5(3) of that Schedule.

(3) A grant of bail which is subject to such a recognizance or bail bond may not be the subject of a direction by the First-tier Tribunal under paragraph 6(3) of Schedule 10.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations commence sections 61(1) and (2) and 66 of the Immigration Act 2016 (“the 2016 Act”) (c. 19) and the majority of the immigration bail provisions set out in Schedule 10 to the 2016

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Act. Some provisions, which relate to automatic electronic tagging, are not being commenced at this time.

Schedule 10 introduces a new framework for immigration bail, replacing a legal framework containing six different legal statuses (including immigration bail and temporary admission) with a single power of immigration bail.

These Regulations also commence certain provisions in Schedule 11 in order to effect the repeal of section 4(1) of the Immigration and Asylum Act 1999 (provision of accommodation) and the appeals provisions in relation to it. This coincides with the commencement of paragraph 9 of Schedule 10 to the 2016 Act which provides a means by which those on bail can be supported.

Regulation 3 gives effect to the Schedule to these Regulations. The Schedule makes a number of transitional provisions.

Paragraph 1 makes transitional provisions to ensure that those who are at large at the date on which Schedule 10 to the 2016 Act comes into force are treated as having been granted immigration bail and that any conditions attached to their former status will remain in place under the new provisions.

Paragraph 2 makes transitional provisions in respect of recognizances entered into by sureties in respect of bail. This paragraph has the effect of converting an existing recognizance and bail bonds into a financial condition within the meaning of paragraph 5 of Schedule 10. Sub-paragraph (3) ensures that management of bail cases in which a recognizance or bail bond has been given to the Tribunal remain with the Tribunal for the purposes of determining liability following a breach of conditions.

#### **NOTE AS TO EARLIER COMMENCEMENT REGULATIONS**

*(This note is not part of the Regulations)*

The following provisions of the Immigration Act 2016 (c. 19) have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 13	12th July 2016	2016/603
Sections 14 to 24	25th November 2016	2016/1037
Section 25	12th July 2016	2016/603
Sections 26 to 30	25th November 2016	2016/1037
Sections 31 to 35	12th July 2016	2016/603
Section 36	6th April 2017	2017/380
Section 37	1st December 2016	2016/1037
Section 38	1st December 2016	2016/1037
Section 39 (partially)	1st November 2016	2016/1037
Section 39 (partially)	1st December 2016	2016/1037
Section 40 (partially)	1st November 2016	2016/1037
Section 40 (for all remaining purposes)	1st December 2016	2016/1037
Section 41 (partially)	1st December 2016	2016/1037
Section 43 (partially)	31 July 2017	2017/799
Section 45 (partially)	1st November 2016	2016/1037

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 45 (for all remaining purposes)	30 October 2017	<a href="#">2017/929</a>
Sections 46 to 53	12th July 2016	<a href="#">2016/603</a>
Section 54	1st December 2016	<a href="#">2016/1037</a>
Sections 55 to 60	12th July 2016	<a href="#">2016/603</a>
Sections 62 to 65	1st December 2016	<a href="#">2016/1037</a>
Section 67	31st May 2016	<a href="#">2016/603</a>
Sections 69 to 72	31st May 2016	<a href="#">2016/603</a>
Section 73	1st January 2018	<a href="#">2017/1210</a>
Section 75	31st May 2016	<a href="#">2016/603</a>
Section 76	12th July 2016	<a href="#">2016/603</a>
Sections 77 to 84	21st November 2016	<a href="#">2016/1037</a>
Sections 86 to 89	12th July 2016	<a href="#">2016/603</a>
Schedules 1 to 3	12th July 2016	<a href="#">2016/603</a>
Schedule 4	6th April 2017	<a href="#">2017/380</a>
Schedules 5 and 6	1st December 2016	<a href="#">2016/1037</a>
Schedule 7 (partially)	1st November 2016	<a href="#">2016/1037</a>
Schedule 7 (for all remaining purposes)	30 October 2017	<a href="#">2017/929</a>
Schedule 8	1st December 2016	<a href="#">2016/1037</a>
Schedule 9	12th July 2016	<a href="#">2016/603</a>
Schedule 14	31st May 2016	<a href="#">2016/603</a>
Schedule 15	12th July 2016	<a href="#">2016/603</a>