

# Immigration Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as Bill 74 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Theresa May has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Immigration Bill are compatible with the Convention rights.

# Immigration Bill

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Make provision about the law on immigration and asylum; to make provision about access to services, facilities, licences and work by reference to immigration status; to make provision about the Director of Labour Market Enforcement; to make provision about language requirements for public sector workers; to make provision about fees for passports and civil registration; and for connected purposes.

**B**E 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**

LABOUR MARKET AND ILLEGAL WORKING

*Director of Labour Market Enforcement*

**1 Director of Labour Market Enforcement**

- (1) The Secretary of State must appoint a person as the Director of Labour Market Enforcement (referred to in this Part as “the Director”). 5
- (2) The Director is to hold office in accordance with the terms of his or her appointment.
- (3) The functions of the Director are exercisable on behalf of the Crown.
- (4) *The Secretary of State must provide the Director with such staff, goods, services, accommodation and other resources as the Secretary of State considers the Director needs for the exercise of his or her functions.* 10
- (5) The Secretary of State must pay the Director such expenses, remuneration and allowances as may be provided for by or under the terms of the Director’s appointment. 15

**2 Labour market enforcement strategy**

- (1) The Director must before the beginning of each financial year prepare a labour market enforcement strategy for that year and submit it to the Secretary of State for approval.
- (2) A labour market enforcement strategy (referred to in this Part as a “strategy”) is a document which—
- (a) sets out the Director’s assessment of—
    - (i) the scale and nature of non-compliance in the labour market during the year before the one to which the strategy relates, and
    - (ii) the likely scale and nature of such non-compliance during the year to which the strategy relates and the following two years,
  - (b) contains a proposal for the year to which the strategy relates setting out—
    - (i) how labour market enforcement functions should be exercised, and
    - (ii) the education, training and research activities the Secretary of State, and any other person by whose officers labour market enforcement functions are exercisable, should undertake or facilitate in connection with those functions,
  - (c) sets out the activities the Director proposes to undertake during the year to which the strategy relates in the exercise of his or her functions under section 6, and
  - (d) deals with such other matters as the Director considers appropriate.
- (3) The proposal mentioned in subsection (2)(b) must, in particular, set out how the funding available for the purposes of the functions and activities concerned should be allocated.
- (4) The Director may at any time prepare a revised strategy and submit it to the Secretary of State for approval.
- (5) The Secretary of State may approve a strategy either with or without modifications (but a modification may not relate to the assessment described in paragraph (a) of subsection (2)).
- (6) Any person by whom labour market enforcement functions are exercisable during a year to which a strategy approved under this section relates must, in exercising those functions, have regard to the strategy.
- (7) In this section and section 4 “financial year” means a period of 12 months ending with 31 March.

**3 Non-compliance in the labour market etc: interpretation**

- (1) For the purposes of this Part each of the following constitutes “non-compliance in the labour market” —
- (a) breach of a requirement imposed by or under labour market legislation;
  - (b) the commission of a labour market offence.
- (2) In this Part “labour market enforcement functions” means —
- (a) any function of the Secretary of State in connection with prohibition orders made under section 3A of the Employment Agencies Act 1973,
  - (b) any function of an officer authorised by the Secretary of State under section 9 of that Act,

- (c) any function of an officer acting for the purposes of the National Minimum Wage Act 1998 (whether so acting by virtue of paragraph (a) or (b) of section 13(1) of that Act),
    - (d) any function of an enforcement officer acting for the purposes of the Gangmasters (Licensing) Act 2004 (whether so acting by virtue of section 15(1) or (2) of that Act), and 5
    - (e) any other function prescribed by regulations made by the Secretary of State.
  - (3) In this section “labour market legislation” means – 10
    - (a) the Employment Agencies Act 1973,
    - (b) the National Minimum Wage Act 1998,
    - (c) the Gangmasters (Licensing) Act 2004, and
    - (d) any other enactment prescribed by regulations made by the Secretary of State.
  - (4) In this section “labour market offence” means – 15
    - (a) an offence under the Employment Agencies Act 1973;
    - (b) an offence under the National Minimum Wage Act 1998;
    - (c) an offence under the Gangmasters (Licensing) Act 2004;
    - (d) an offence under section 1 of the Modern Slavery Act 2015;
    - (e) an offence under section 2 or 4 of that Act – 20
      - (i) which is committed in relation to a worker or a person seeking work, or
      - (ii) which is otherwise committed in circumstances where subsection (2) of section 3 of that Act applies;
    - (f) any other offence prescribed by regulations made by the Secretary of State. 25
  - (5) Regulations under this section may make such provision amending or repealing any provision of section 2, 4, 5, 6 or 7 as the Secretary of State considers appropriate in consequence of any provision made by the regulations. 30
  - (6) In this section “worker” has the same meaning as in the Employment Rights Act 1996 (see section 230 of that Act) and the reference to a person seeking work is to be read accordingly.
  - (7) In this section references to the Gangmasters (Licensing) Act 2004 are references to that Act only so far as it applies in relation to England and Wales and Scotland. 35
- 4 Annual and other reports**
- (1) As soon as reasonably practicable after the end of each financial year in respect of which the Secretary of State has approved a strategy under section 2, the Director must submit to the Secretary of State an annual report for that year. 40
  - (2) An annual report must include –
    - (a) an assessment of the extent to which labour market enforcement functions were exercised, and activities of the kind mentioned in section 2(2)(b)(ii) were carried out, in accordance with the strategy during the year to which the report relates, 45

<ul style="list-style-type: none"> <li>(b) an assessment of the extent to which the strategy had an effect on the scale and nature of non-compliance in the labour market during that year, and</li> <li>(c) a statement of the activities the Director undertook during that year in the exercise of his or her functions under section 6.</li> </ul>	5
<p>(3) The Director must submit to the Secretary of State a report dealing with any matter –</p> <ul style="list-style-type: none"> <li>(a) which the Secretary of State has requested the Director report on, or</li> <li>(b) which a strategy approved by the Secretary of State under section 2 states is a matter the Director proposes to report on,</li> </ul> <p>and must do so as soon as reasonably practicable after the request is made or the strategy is approved.</p>	10
<b>5 Publication of strategy and reports</b>	
<p>(1) The Secretary of State must lay before Parliament –</p> <ul style="list-style-type: none"> <li>(a) any strategy the Secretary of State approves under section 2, and</li> <li>(b) any annual or other report the Secretary of State receives under section 4,</li> </ul> <p>and must do so as soon as reasonably practicable after approving the strategy or receiving the report.</p>	15
<p>(2) A document laid under subsection (1) must not contain material removed under subsection (3).</p>	20
<p>(3) The Secretary of State may remove from a document to be laid under subsection (1) any material the publication of which the Secretary of State considers –</p> <ul style="list-style-type: none"> <li>(a) would be against the interests of national security,</li> <li>(b) might jeopardise the safety of any person in the United Kingdom, or</li> <li>(c) might prejudice the investigation or prosecution of an offence under the law of England and Wales, Scotland or Northern Ireland.</li> </ul>	25
<b>6 Information hub</b>	
<p>The Director must gather, store, process, analyse and disseminate information relating to non-compliance in the labour market.</p>	30
<b>7 Restriction on exercising functions in relation to individual cases</b>	
<p>(1) The Director must not in exercising any function make any recommendation in relation to an individual case.</p>	
<p>(2) Subsection (1) does not prevent the Director considering individual cases and drawing conclusions about them for the purpose of, or in the context of, considering a general issue.</p>	35
<i>Offences</i>	
<b>8 Offence of illegal working</b>	
<p>(1) The Immigration Act 1971 is amended as follows.</p>	40

- (2) In section 3(1)(c)(i) (power to grant limited leave to enter or remain in the United Kingdom subject to condition restricting employment or occupation) for “employment” substitute “work”.
- (3) After section 24A insert –

**“24B Illegal working”** 5

- (1) A person who is subject to immigration control commits an offence if the person works at a time when –
- (a) the person has not been granted leave to enter or remain in the United Kingdom, or
  - (b) the person’s leave to enter or remain in the United Kingdom – 10
    - (i) is invalid,
    - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
    - (iii) is subject to a condition preventing the person from doing work of that kind. 15
- (2) A person who is guilty of an offence under subsection (1) is liable on summary conviction –
- (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both, 20
  - (b) in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.
- (3) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 51 weeks is to be read as a reference to 6 months. 25
- (4) If a person is convicted of an offence under subsection (1) in England and Wales, the prosecutor must consider whether to ask the court to commit the person to the Crown Court under section 70 of the Proceeds of Crime Act 2002 (committal with view to confiscation order being considered). 30
- (5) If a person is convicted of an offence under subsection (1) in Scotland, the prosecutor must consider whether to ask the court to act under section 92 of the Proceeds of Crime Act 2002 (making of confiscation order). 35
- (6) If a person is convicted of an offence under subsection (1) in Northern Ireland, the prosecutor must consider whether to ask the court to commit the person to the Crown Court under section 218 of the Proceeds of Crime Act 2002 (committal with view to confiscation order being considered). 40
- (7) The reference in subsection (1) to a person who is subject to immigration control is to a person who under this Act requires leave to enter or remain in the United Kingdom.
- (8) Where a person is on immigration bail within the meaning of Part 1 of Schedule 5 to the Immigration Act 2016 – 45

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- (a) the person is to be treated for the purposes of subsection (1) as if the person had been granted leave to enter the United Kingdom, but
- (b) any condition as to the person’s work in the United Kingdom to which the person’s immigration bail is subject is to be treated for those purposes as a condition of leave. 5
- (9) The reference in subsection (1) to a person working is to that person working –
- (a) under a contract of employment,
- (b) under a contract of apprenticeship, 10
- (c) under a contract personally to do work,
- (d) under or for the purposes of a contract for services,
- (e) for a purpose related to a contract to sell goods,
- (f) as a constable,
- (g) in the course of Crown employment, 15
- (h) as a relevant member of the House of Commons staff, or
- (i) as a relevant member of the House of Lords staff.
- (10) In subsection (9) –
- “contract to sell goods” means a contract by which a person acting in the course of a trade, business, craft or profession transfers or agrees to transfer the property in goods to another person (and for this purpose “goods” means any tangible moveable items); 20
- “Crown employment” –
- (a) in relation to England and Wales and Scotland, has the meaning given by section 191(3) of the Employment Rights Act 1996; 25
- (b) in relation to Northern Ireland, has the meaning given by Article 236(3) of the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16));
- “relevant member of the House of Commons staff” has the meaning given by section 195(5) of the Employment Rights Act 1996; 30
- “relevant member of the House of Lords staff” has the meaning given by section 194(6) of the Employment Rights Act 1996.
- (11) Subsection (1) does not apply to – 35
- (a) service as a member of the naval, military or air forces of the Crown, or
- (b) employment by an association established for the purposes of Part 11 of the Reserve Forces Act 1996.
- (12) In this section “contract” means a contract whether express or implied and, if express, whether oral or in writing.” 40
- (4) In section 28A(3)(a) (arrest without warrant) after “section” insert “24B,”.
- (5) In section 28B(5) (search and arrest by warrant: relevant offences) after “24A,” insert “24B,”.
- (6) In section 28CA(1) (business premises: entry to arrest) after paragraph (b) insert – 45
- “(ba) for an offence under section 24B,”.

- (7) In section 28D(4) (entry and search of premises: relevant offences) after “24A,” insert “24B,”.
- (8) In section 28FA(1)(a) (search for personnel records: offences to which section applies) for “or 24A(1)” substitute “, 24A(1) or 24B(1)”.

**9 Offence of employing illegal worker** 5

- (1) In section 21 of the Immigration, Asylum and Nationality Act 2006 (offence of knowingly employing illegal worker) in subsection (1) after “knowing” insert “or having reasonable cause to believe”.
- (2) In that section, in subsection (2)(a)(i) (maximum term of imprisonment for conviction of offence on indictment) for “two” substitute “five”. 10
- (3) In section 28A of the Immigration Act 1971 (arrest without warrant) –
  - (a) after subsection (9A) insert –
    - “(9B) An immigration officer may arrest without warrant a person who, or whom the immigration officer has reasonable grounds for suspecting – 15
      - (a) has committed or attempted to commit an offence under section 21(1) of the Immigration, Asylum and Nationality Act 2006 (employment of illegal worker etc), or
      - (b) is committing or attempting to commit that offence.”, 20
    - (b) in subsection (10) for “and (5)” substitute “, (5) and (9B)”, and
    - (c) in subsection (11) for “and (5)” substitute “, (5) and (9B)”.
- (4) In subsection 28AA(1) of that Act (arrest with warrant) for paragraphs (a) and (b) substitute “section 24(1)(d)”.

*Illegal working in licensed premises* 25

**10 Licensing Act 2003: amendments relating to illegal working**

- (1) Schedule 1 (Licensing Act 2003: amendments relating to illegal working) has effect.
- (2) The Secretary of State may by regulations make provision which –
  - (a) has a similar effect to the amendments made by Schedule 1, and 30
  - (b) applies in relation to Scotland or Northern Ireland.
- (3) Regulations under subsection (2) may –
  - (a) amend, repeal or revoke any relevant enactment;
  - (b) confer functions on any person.
- (4) Regulations under subsection (2) may not confer functions on – 35
  - (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 “relevant enactment” means – 40
  - (a) an Act of the Scottish Parliament or Northern Ireland legislation, and

- (b) an instrument made under such an Act or under Northern Ireland legislation.

*Illegal working notices and orders*

**11 Illegal working closure notices and illegal working compliance orders**

Schedule 2 (illegal working closure notices and illegal working compliance orders) has effect. 5

**PART 2**

ACCESS TO SERVICES

*Residential tenancies*

**12 Offence of leasing premises** 10

- (1) The Immigration Act 2014 is amended in accordance with subsections (2) to (5).  
(2) After section 33 insert –

*“Offences*

**33A Offences: landlords**

- (1) The landlord under a residential tenancy agreement which relates to premises in England commits an offence if the first and second conditions are met. 15
- (2) The first condition is that the premises are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement. 20
- (3) The second condition is that the landlord knows or has reasonable cause to believe that the premises are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (4) But unless subsection (5) applies the landlord does not commit an offence under subsection (1) if – 25
- (a) the premises are located in an area in relation to which section 22 is in force,
- (b) the adult mentioned in subsections (2) and (3) is a limited right occupier, and 30
- (c) the eligibility period in relation to that occupier has not expired.
- (5) This subsection applies if the Secretary of State has given a notice in writing to the landlord which – 35
- (a) identifies the adult mentioned in subsections (2) and (3), and
- (b) states that the adult is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement.
- (6) Section 22(9) applies for the purposes of subsections (1) to (5) as it applies for the purposes of that section.

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- (7) A person commits an offence if—
- (a) there has been a post-grant contravention in relation to a residential tenancy agreement which relates to premises in England,
  - (b) the person is the responsible landlord in relation to the post-grant contravention, 5
  - (c) the person knows or has reasonable cause to believe that there has been a post-grant contravention in relation to the agreement, and
  - (d) none of paragraphs (a), (b) and (c) of section 24(6) applies in relation to the post-grant contravention. 10
- (8) Subsection (7) applies whether or not the landlord is given a notice under section 23 in respect of the contravention.
- 33B Offences: agents**
- (1) Subsection (2) applies to an agent who is responsible for a landlord’s contravention of section 22 in relation to premises in England. 15
- (2) The agent commits an offence if the agent—
- (a) knew or had reasonable cause to believe that the landlord would contravene section 22 by entering into the residential tenancy agreement in question, 20
  - (b) had sufficient opportunity to notify the landlord of that fact before the landlord entered into the agreement, but
  - (c) did not do so.
- (3) Subsection (4) applies where—
- (a) a landlord contravenes section 22 in relation to a residential tenancy agreement relating to premises in England, 25
  - (b) the contravention is a post-grant contravention, and
  - (c) a person acting as the landlord’s agent (“the agent”) is responsible for the post-grant contravention.
- (4) The agent commits an offence if— 30
- (a) the agent knows or has reasonable cause to believe that there has been a post-grant contravention in relation to the agreement, and
  - (b) neither of paragraphs (a) and (b) of section 26(6) applies in relation to the post-grant contravention. 35
- (5) Subsection (4) applies whether or not the agent is given a notice under section 25 in respect of the contravention.
- 33C Offences: penalties etc**
- (1) A person who is guilty of an offence under section 33A or 33B is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, to a fine or to both; 40
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both.
- (2) In the application of this section in relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 45

- 2003 the reference in subsection (1)(b) to 12 months is to be read as a reference to 6 months.
- (3) If an offence under section 33A or 33B is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, is to be treated as having committed the offence. 5
- (4) In subsection (3) a reference to an officer of a body includes a reference to—
- (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and 10
  - (c) if the affairs of the body are managed by its members, a member.
- (5) Where an offence under section 33A or 33B is committed by a partnership (whether or not a limited partnership) subsection (3) has effect, but as if a reference to an officer of the body were a reference to— 15
- (a) a partner, and
  - (b) a person purporting to act as a partner.
- (6) An offence under section 33A or 33B is to be treated as—
- (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (search, entry and arrest), and 20
  - (b) an offence under Part 3 of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H of that Act (search after arrest).”
- (3) In section 35 (transitional provision) after subsection (3) insert—
- “(4) References in this section to this Chapter do not include sections 33A to 33C (offences: landlords and agents). 25
- (5) Sections 33A to 33C apply in relation to a residential tenancy agreement entered into before or after the coming into force of section 12 of the Immigration Act 2016 (which inserted those sections into this Act).
- (6) But sections 33A(7) and (8) and section 33B apply only in relation to a contravention of section 22 which occurs after the coming into force of section 12 of the Immigration Act 2016.” 30
- (4) In section 36 (Crown application) at the end insert “or the landlord for the purposes of section 33A.”
- (5) In section 37(4)(a) (provisions in which references to the landlord are to any of them)— 35
- (a) omit the “and” at the end of sub-paragraph (ii), and
  - (b) at the end of sub-paragraph (iii) insert “, and
  - (iv) section 33A.”.
- (6) In section 28A of the Immigration Act 1971 (arrest without warrant)— 40
- (a) after subsection (9B) insert—
- “(9C) An immigration officer may arrest without warrant a person who, or whom the immigration officer has reasonable grounds for suspecting—

- (a) has committed or attempted to commit an offence under section 33A or 33B of the Immigration Act 2014 (offences relating to residential tenancies), or
- (b) is committing or attempting to commit that offence.”,
- (b) in subsection (10) for “and (9B)” substitute “, (9B) and (9C)”, and 5
- (c) in subsection (11) for “and (9B)” substitute “, (9B) and (9C)”.

### 13 Eviction

- (1) The Immigration Act 2014 is amended in accordance with subsections (2) and (3).
- (2) After section 33C (inserted by section 12) insert – 10

*“Eviction*

**“33D Termination of agreement where all occupiers disqualified**

- (1) The landlord under a residential tenancy agreement relating to premises in England may terminate the agreement in accordance with this section if the condition in subsection (2) is met. 15
- (2) The condition is that the Secretary of State has given one or more notices in writing to the landlord which, taken together, –
  - (a) identify the occupier of the premises or (if there is more than one occupier) all of them, and
  - (b) state that the occupier or occupiers are disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement. 20
- (3) The landlord may terminate the residential tenancy agreement by giving notice in writing to the tenant or, in the case of a joint tenancy, all of the tenants specifying the date on which the agreement comes to an end. 25
- (4) That date must not be earlier than the end of the period of 28 days beginning with the day specified in the notice as the day on which it is given.
- (5) The notice is to be treated as a notice to quit in a case where a notice to quit would otherwise be required to bring the residential tenancy agreement to an end. 30
- (6) The notice is enforceable as if it were an order of the High Court.
- (7) In this section “occupier”, in relation to premises to which a residential tenancy agreement applies, means – 35
  - (a) a tenant,
  - (b) an adult who, under the agreement, otherwise has the right to occupy the premises and is named in the agreement, and
  - (c) a person who is otherwise occupying the premises and of whom the landlord is aware or would be aware if the landlord made reasonable enquiries. 40

**33E Other procedures for ending agreement**

- (1) It is an implied term of a residential tenancy agreement to which this subsection applies that the landlord may terminate the tenancy if the premises to which it relates are occupied by an adult who is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement. 5
- (2) Subsection (1) applies to a residential tenancy agreement relating to premises in England if –
- (a) it is a tenancy or sub-tenancy or an agreement for a tenancy or sub-tenancy, but 10
  - (b) it is not a protected or statutory tenancy within the meaning of the Rent Act 1977 or an assured tenancy within the meaning of the Housing Act 1988.
- (3) For provision relating to a residential tenancy agreement which is a protected or statutory tenancy where a tenant or occupier is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement, see Case 10A in Part 1 of Schedule 15 to the Rent Act 1977. 15
- (4) For provision relating to a residential tenancy agreement which is an assured tenancy where a tenant or occupier is disqualified as a result of their immigration status from occupying premises under a residential tenancy agreement, see Ground 7B in Part 1 of Schedule 2 to the Housing Act 1988.” 20
- (3) In section 35 (transitional provision) after subsection (6) (inserted by section 12(3)) insert – 25
- “(7) Sections 33D and 33E apply in relation to a residential tenancy agreement entered into before or after the coming into force of section 13 of the Immigration Act 2016 (which inserted those sections into this Act).”
- (4) In section 3A of the Protection from Eviction Act 1977 (excluded tenancies and licences) after subsection (7C) insert – 30
- “(7D) A tenancy or licence is excluded if –
- (a) it is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
  - (b) the condition in section 33D(2) of that Act is met in relation to that agreement.” 35
- (5) In section 5 of the Housing Act 1988 (security of tenure) –
- (a) in subsection (1) omit the “or” at the end of paragraph (b) and at the end of paragraph (c) insert “, or 40
  - (d) in the case of an assured tenancy –
    - (i) which is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
    - (ii) in relation to which the condition in section 33D(2) of that Act is met, 45
 giving a notice in accordance with that section,” and
  - (b) in subsection (2) omit the “or” at the end of paragraph (a) and at the end

- of paragraph (b) insert “, or  
(c) the giving of a notice under section 33D of the  
Immigration Act 2014,”.

#### 14 Order for possession of dwelling-house

- (1) The Housing Act 1988 is amended in accordance with subsections (2) to (5). 5  
(2) In Part 1 of Schedule 2 (assured tenancies: grounds on which court must order possession) after Ground 7A insert –

##### “Ground 7B

Both of the following conditions are met in relation to a dwelling-house in England. 10

Condition 1 is that the Secretary of State has given a notice in writing to the landlord which identifies –

- (a) the tenant or, in the case of joint tenants, one or more of them, or  
(b) one or more other persons aged 18 or over who are occupying the dwelling-house, 15

as a person or persons disqualified as a result of their immigration status from occupying the dwelling-house under the tenancy.

Condition 2 is that the person or persons named in the notice –

- (a) fall within paragraph (a) or (b) of condition 1, and 20  
(b) are disqualified as a result of their immigration status from occupying the dwelling-house under the tenancy.

For the purposes of this ground a person (“P”) is disqualified as a result of their immigration status from occupying the dwelling-house under the tenancy if – 25

- (a) P is not a relevant national, and  
(b) P does not have a right to rent in relation to the dwelling-house.

P does not have a right to rent in relation to the dwelling-house if –

- (a) P requires leave to enter or remain in the United Kingdom but does not have it, or 30  
(b) P’s leave to enter or remain in the United Kingdom is subject to a condition preventing P from occupying the dwelling-house.

But P is to be treated as having a right to rent in relation to a dwelling-house if the Secretary of State has granted P permission for the purposes of this ground to occupy a dwelling-house under an assured tenancy. 35

In this ground “relevant national” means –

- (a) a British citizen, 40  
(b) a national of an EEA State other than the United Kingdom, or  
(c) a national of Switzerland.”

- (3) In section 7 (orders for possession) –

- 
- (a) in subsection (3) after “subsections (5A) and (6)” insert “and section 10A”,
- (b) in subsection (5A)(a) for “and 7A” substitute “, 7A and 7B”,
- (c) in subsection (6)(a) after “Ground 7A” insert “, Ground 7B”, and
- (d) after subsection (6A) insert – 5
- “(6B) The requirement in subsection (6)(b) that would otherwise apply to an order for possession of a dwelling-house let on an assured fixed term tenancy does not apply where the ground for possession is Ground 7B in Part 1 of Schedule 2 to this Act.”
- (4) In section 8(5) (cases where court may not dispense with notice of proceedings for possession) after “Ground 7A” insert “, 7B”. 10
- (5) After section 10 insert –
- “10A Power to order transfer of tenancy in certain cases**
- (1) This section applies on an application for an order for possession of a dwelling-house let on an assured tenancy if the court is satisfied that – 15
- (a) Ground 7B in Schedule 2 is established,
- (b) no other ground in that Schedule is established, or one or more grounds in Part 2 of that Schedule are established but it is not reasonable to make an order for possession on that ground or those grounds, 20
- (c) the tenancy is a joint tenancy, and
- (d) one or more of the tenants is a qualifying tenant.
- (2) In subsection (1)(d) “qualifying tenant” means a person who (within the meaning of ground 7B) is not disqualified as a result of the person’s immigration status from occupying the dwelling-house under the tenancy. 25
- (3) The court may, instead of making an order for possession, order that the tenant’s interest under the tenancy is to be transferred so that it is held –
- (a) if there is one qualifying tenant, by the qualifying tenant as sole tenant, or 30
- (b) if there is more than one qualifying tenant, by all of them as joint tenants.
- (4) The effect of an order under this section is that, from the time the order takes effect, the qualifying tenant or tenants – 35
- (a) are entitled to performance of the landlord’s covenants under the tenancy, and
- (b) are liable to perform the tenant’s covenants under the tenancy.
- (5) The effect of an order under this section is that, from the time it takes effect, any other person who was a tenant under the tenancy before the order took effect – 40
- (a) ceases to be entitled to performance of the landlord’s covenants under the tenancy, or
- (b) ceases to be liable to perform the tenant’s covenants under the tenancy. 45

- (6) Subsection (5) does not remove any right or liability of the person which accrued before the order took effect.
- (7) An order under this section does not operate to create a new tenancy as between the landlord and the qualifying tenant or tenants.
- (8) In particular, if the tenancy is a fixed term tenancy, the term comes to an end at the same time as if the order had not been made.” 5
- (6) In Part 1 of Schedule 15 to the Rent Act 1977 (grounds for possession of dwelling-houses let on or subject to protected or statutory tenancies) after Case 10 insert –

“Case 10A 10

Both of the following conditions are met in relation to a dwelling-house in England.

Condition 1 is that the Secretary of State has given a notice in writing to the landlord which identifies –

- (a) the tenant or, in the case of joint tenants, one or more of them, or 15
- (b) one or more other persons aged 18 or over who are occupying the dwelling-house,

as a person or persons disqualified as a result of their immigration status from occupying the dwelling-house under the tenancy. 20

Condition 2 is that the person or persons named in the notice –

- (a) fall within paragraph (a) or (b) of condition 1, and
- (b) are disqualified as a result of their immigration status from occupying the dwelling-house under the tenancy.

For the purposes of this case a person (“P”) is disqualified as a result of their immigration status from occupying the dwelling-house under the tenancy if – 25

- (a) P is not a relevant national, and
- (b) P does not have a right to rent in relation to the dwelling-house. 30

P does not have a right to rent in relation to the dwelling-house 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 dwelling-house. 35

But P is to be treated as having a right to rent in relation to a dwelling-house if the Secretary of State has granted P permission for the purposes of this case to occupy a dwelling-house under an assured tenancy. 40

In this case “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.”

- (7) The amendments made by this section apply in relation to a tenancy entered into before or after the coming into force of this section.

## 15 Extension to Wales, Scotland and Northern Ireland

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for enabling any of the residential tenancies provisions to apply in relation to Wales, Scotland or Northern Ireland. 5
- (2) The Secretary of State may by regulations make provision which—
- (a) has a similar effect to any of the residential tenancies provisions, and
  - (b) applies in relation to Wales, Scotland or Northern Ireland.
- (3) Regulations under subsection (1) or (2) may— 10
- (a) amend, repeal or revoke any enactment (including an enactment contained in this Act);
  - (b) confer functions on any person.
- (4) Regulations under subsection (1) or (2) may not confer functions on— 15
- (a) the Welsh Ministers,
  - (b) the Scottish Ministers,
  - (c) the First Minister and deputy First Minister in Northern Ireland,
  - (d) a Northern Ireland Minister, or
  - (e) a Northern Ireland department.
- (5) In this section— 20
- “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 or Measure of the National Assembly for Wales; 25
  - (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- “the residential tenancies provisions” means sections 12 to 14 and the amendments made by those sections. 30

### *Driving*

## 16 Powers to carry out searches relating to driving licences

- (1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control of entry etc) is amended in accordance with subsections (2) and (3). 35
- (2) After paragraph 25C insert—
- “Entry of premises to search for driving licence*
- 25CA(1) An authorised officer may exercise the powers in this section if the officer has reasonable grounds for believing that a person—
- (a) is in possession of a driving licence, and 40
  - (b) is not lawfully resident in the United Kingdom.

- 
- (2) The authorised officer may enter and search any premises –
- (a) occupied or controlled by the person, or
  - (b) in which the person was when the person was encountered by the officer,
- for the driving licence. 5
- (3) The power conferred by sub-paragraph (2) may be exercised –
- (a) only if the authorised officer has reasonable grounds for believing that the driving licence is on the premises,
  - (b) only to the extent that it is reasonably required for the purpose of discovering the driving licence, and 10
  - (c) unless the authorised officer is a constable, only if a senior officer has authorised its exercise in writing.
- (4) Sub-paragraph (3)(c) does not apply where it is not reasonably practicable for the authorised officer to obtain the authorisation of a senior officer before exercising the power. 15
- (5) An authorised officer who has conducted a search in reliance on sub-paragraph (4) must inform a senior officer as soon as is practicable.
- (6) The senior officer authorising a search, or who is informed of one under sub-paragraph (5), must make a record in writing of the grounds for the search. 20
- (7) In this paragraph and paragraphs 25CB and 25CC –
- “authorised officer” means –
- (a) an immigration officer,
  - (b) a constable, or
  - (c) a person of a kind authorised for the purposes of this paragraph and paragraphs 25CB and 25CC by the Secretary of State; 25
- “driving licence” –
- (a) means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988 or Part II of the Road Traffic (Northern Ireland) Order 1981 (SI 1981/154 (NI 1)), and 30
  - (b) includes a licence of that kind which has been revoked;
- “senior officer” means – 35
- (a) in relation to an authorised officer who is an immigration officer, an immigration officer not below the rank of chief immigration officer;
  - (b) in relation to an authorised officer other than an immigration officer, a person of a kind designated by the Secretary of State for the purposes of this paragraph in relation to an authorised officer of that kind. 40
- (8) For the purposes of this paragraph and paragraphs 25CB and 25CC 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. 45

*Searching persons for driving licences*

- 25CB(1) An authorised officer may exercise the powers in this section if the officer has reasonable grounds for believing that a person –
- (a) is in possession of a driving licence, and
  - (b) is not lawfully resident in the United Kingdom. 5
- (2) The authorised officer may search the person for the driving licence.
- (3) The power conferred by sub-paragraph (2) may be exercised –
- (a) only if the authorised officer has reasonable grounds for believing that the driving licence may be concealed on the person, and 10
  - (b) only to the extent that it is reasonably required for the purpose of discovering the driving licence.
- (4) An intimate search may not be carried out under sub-paragraph (2).
- (5) In sub-paragraph (4) “intimate search” has the same meaning as in section 28H(11). 15

*Seizure and retention of driving licence*

- 25CC(1) If an authorised officer who is exercising a power to search a person or premises finds a driving licence to which this sub-paragraph applies in the course of the search, the officer may seize and retain the licence. 20
- (2) Sub-paragraph (1) applies to a driving licence if –
- (a) the authorised officer finds the licence in the possession of a person who the authorised officer has reasonable grounds for believing is not lawfully resident in the United Kingdom, or
  - (b) the authorised officer has reasonable grounds for believing that the holder of the licence is not lawfully resident in the United Kingdom. 25
- (3) A driving licence seized under sub-paragraph (1) must, as soon as practicable, be given to –
- (a) the Secretary of State, in the case of a licence granted by the Secretary of State, or 30
  - (b) the Department of the Environment for Northern Ireland, in the case of a licence granted by the Department.
- (4) A person who is in possession of a driving licence by virtue of sub-paragraph (3) must retain it if – 35
- (a) it has not been revoked,
  - (b) it has been revoked but the time limit for an appeal against revocation of the licence has not expired, or
  - (c) it has been revoked, such an appeal has been brought but the appeal has not been determined. 40
- (5) A driving licence which is required to be retained under sub-paragraph (4) must be retained –
- (a) until a decision is taken not to revoke it, or
  - (b) if it has been or is subsequently revoked –

- (i) until the time limit for an appeal against revocation of the licence expires without an appeal being brought, or
    - (ii) until such an appeal is determined.
  - (6) A driving licence which is in the possession of a person by virtue of sub-paragraph (3) but which is not required to be retained under sub-paragraphs (4) and (5) must be returned to the holder if—
    - (a) a decision is taken not to revoke the licence, or
    - (b) an appeal against revocation of the licence is determined in favour of the holder.
  - (7) Otherwise the driving licence may be dealt with in such manner as that person thinks fit.
  - (8) Neither the Secretary of State nor the Department of the Environment for Northern Ireland is obliged to re-issue a licence which has been seized and retained under this paragraph.
  - (9) References in this paragraph to an appeal against the revocation of a licence are to—
    - (a) an appeal under section 100 of the Road Traffic Act 1988, in the case of a licence granted by the Secretary of State, or
    - (b) an appeal under Article 16 of the Road Traffic (Northern Ireland) Order 1981 (SI 1981/154 (NI 1)), in the case of a licence granted by the Department of the Environment for Northern Ireland.
  - (10) References in this paragraph to the holder of a driving licence, in relation to a licence that has been revoked, include the person who was the holder of the licence before it was revoked.”
  - (3) In paragraph 25D(8) (access and copying: meaning of seized material) at the end insert “other than a driving licence seized under paragraph 25CC.”
  - (4) In section 146(2) of the Immigration and Asylum Act 1999 (use of reasonable force) before paragraph (b) insert—
    - “(ab) paragraph 25CA, 25CB or 25CC of Schedule 2 to the 1971 Act (powers to search for and seize driving licences),”.
- 17 Offence of driving when unlawfully in the United Kingdom**
- (1) The Immigration Act 1971 is amended in accordance with subsections (2) to (6).
  - (2) Before section 25 insert—
- “24C Driving when unlawfully in the United Kingdom**
- (1) A person commits an offence if the person drives a motor vehicle on a road or other public place at a time when the person is not lawfully resident in the United Kingdom.
  - (2) A person who is guilty of an offence under subsection (1) is liable on summary conviction—
    - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;

- (b) in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.
- (3) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 51 weeks is to be read as a reference to 6 months. 5
- (4) In this section “motor vehicle” and “road” –
- (a) in relation to England and Wales and Scotland, have the same meanings as in the Road Traffic Act 1988;
- (b) in relation to Northern Ireland, have the same meanings as in the Road Traffic (Northern Ireland) Order 1995 (SI 1995/2994 (NI 18)). 10
- (5) For the purposes of this section 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. 15
- 24D Detention of motor vehicles**
- (1) If a person (“P”) has been arrested for an offence under section 24C committed in England and Wales or Northern Ireland, a senior officer or a constable may detain a relevant vehicle.
- (2) Subject to regulations under subsection (7), a vehicle detained under subsection (1) must be released –
- (a) when a decision is taken not to charge P with the offence, or
- (b) if P is charged with the offence –
- (i) when P is acquitted, the charge against P is dismissed or the proceedings are discontinued, or 25
- (ii) if P is convicted, when the court decides not to order forfeiture of the vehicle.
- (3) If a person (“P”) has been arrested for an offence under section 24C committed in Scotland, a senior officer or a constable may detain a relevant vehicle. 30
- (4) Subject to regulations under subsection (7) a vehicle detained under subsection (3) must be released –
- (a) when a decision is taken as to whether to institute criminal proceedings against P for the offence, or
- (b) if criminal proceedings have been instituted against P for the offence – 35
- (i) when P is acquitted or, under section 65 or 147 of the Criminal Procedure (Scotland) Act 1995, discharged or liberated or the trial diet is deserted simpliciter, or
- (ii) if P is convicted, when the court decides not to order forfeiture of the vehicle. 40
- (5) For the purposes of subsection (4) criminal proceedings are instituted against a person (“P”) at whichever is the earliest of P’s first appearance before the sheriff on petition or the service on P of an indictment or complaint. 45

- (6) A vehicle is a relevant vehicle in relation to P if the officer or constable concerned has reasonable grounds for believing it was used in the commission by P of an offence under section 24C.
- (7) The Secretary of State may by regulations make provision about the release of a vehicle detained under (1) or (3). 5
- (8) Regulations under subsection (7) may in particular make provision—
- (a) for the release of a vehicle before the time mentioned in subsection (2) or (4);
  - (b) about the procedure by which a person may seek to have a vehicle released before or after that time; 10
  - (c) about the persons to whom a vehicle may or must be released before or after that time;
  - (d) prescribing conditions to be met before a vehicle may be released before or after that time (including a condition requiring the payment of costs in relation to detention of the vehicle and any application for its release); 15
  - (e) enabling a person specified in the regulations to waive compliance with such a condition;
  - (f) as to the disposal of a vehicle in a case where such a condition is not met; 20
  - (g) as to the destination of the proceeds arising from the disposal of a vehicle in such a case.
- (9) Regulations under subsection (7)—
- (a) are to be made by statutory instrument;
  - (b) may make different provision for different cases; 25
  - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (11) In this section “senior officer” means an immigration officer not below the rank of chief immigration officer.

**24E Orders following conviction of offence under section 24B**

- (1) If a person is convicted of an offence under section 24C, the court may order the forfeiture of the vehicle used in the commission of the offence. 35
- (2) Where a person who claims to have an interest in the vehicle applies to the court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle unless the person has been given an opportunity to make representations. 40
- (3) For the purposes of subsection (2) the persons who have an interest in a vehicle include—
- (a) a person who owns it,
  - (b) the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994, and 45
  - (c) a person who is in possession of it under a hire purchase agreement (or, in the case of a detained vehicle, was in

possession of it under a hire purchase agreement immediately before its detention).

- (4) The Secretary of State may by regulations make provision about—
  - (a) the disposal of a vehicle forfeited under this section;
  - (b) the destination of the proceeds arising from the disposal of such a vehicle. 5
- (5) Regulations under subsection (4)—
  - (a) are to be made by statutory instrument;
  - (b) may make different provision for different cases;
  - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision. 10
- (6) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In section 28A(3)(a) (arrest without warrant) before “25” insert “24C,”. 15
- (4) In section 28B(5) (search and arrest by warrant: relevant offences) before “26A” insert “24C,”.
- (5) In section 28CA(1) (business premises: entry to arrest) for the “or” at the end of paragraph (b) substitute—
  - “(bb) for an offence under section 24C, or”.20
- (6) In section 28D(4) (entry and search of premises: relevant offences) before “25” insert “24C,”.

#### *Bank accounts*

### **18 Bank accounts**

- (1) Schedule 3 (bank accounts) has effect. 25
- (2) Before the end of the period mentioned in subsection (3), the Secretary of State must—
  - (a) review the operation of sections 40A to 40G of the Immigration Act 2014 (inserted by Schedule 3),
  - (b) prepare a report of the review, and
  - (c) lay a copy of the report before Parliament. 30
- (3) The period referred to in subsection (2) is the period of 5 years beginning with the day on which Schedule 3 comes fully into force.

**PART 3**

ENFORCEMENT

*Powers of immigration officers etc*

**19 Powers in connection with examination, detention and removal**

- (1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows. 5
- (2) In paragraph 2(1) (examination by immigration officers) at the end of paragraph (c) insert “; and  
(d) whether, if he has been given leave which is still force, his leave should be curtailed.” 10
- (3) After paragraph 15 insert –  
*“Search of premises in connection with removal*
- 15A (1) This paragraph applies if –  
(a) an immigration officer is lawfully on any premises, and  
(b) a person who is liable to be detained under paragraph 16(2) is on the premises. 15
- (2) The immigration officer may search the premises for documents which –  
(a) relate to the person, and  
(b) may be evidence for a ground on which the person’s leave to enter or remain in the United Kingdom may be curtailed. 20
- (3) The power may be exercised –  
(a) only if the immigration officer has reasonable grounds for believing there are documents within sub-paragraph (2) on the premises, and 25  
(b) only to the extent that it is reasonably required for the purpose of discovering such documents.
- (4) An immigration officer searching premises under this paragraph may seize any document the officer finds which the officer has reasonable grounds for believing is a document within sub-paragraph (2). 30
- (5) Sub-paragraph (6) applies where –  
(a) an immigration officer is searching premises under this paragraph, and  
(b) any document the officer has reasonable grounds for believing is a document within sub-paragraph (2) is stored in any electronic form and is accessible from the premises. 35
- (6) The immigration officer may require the document to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form. 40

- (7) If a requirement under sub-paragraph (6) is not complied with or a document to which that sub-paragraph applies cannot be produced in a form of the kind mentioned in that sub-paragraph, the immigration officer may seize the device or medium on which it is stored. 5
- (8) But sub-paragraphs (4) to (7) do not apply to a document which the immigration officer has reasonable grounds for believing is an item subject to legal privilege.
- (9) An immigration officer may retain a document seized under this paragraph while – 10
- (a) the person to whom the document relates is liable to be detained under paragraph 16(2), and
- (b) the document falls within sub-paragraph (2)(b).
- (10) But a document may not be retained for the purpose mentioned in sub-paragraph (9) if a photograph or copy would be sufficient for that purpose.” 15
- (4) In paragraph 25A (entry and search of premises where person arrested or detained under Schedule 2) –
- (a) after sub-paragraph (7) insert –
- “(7A) Sub-paragraph (7B) applies where – 20
- (a) an officer is searching premises under this paragraph, and
- (b) any document the officer has reasonable grounds for believing is a relevant document is stored in any electronic form and is accessible from the premises. 25
- (7B) The officer may require the document to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (7C) If a requirement under sub-paragraph (7B) is not complied with or a document to which that sub-paragraph applies cannot be produced in a form of the kind mentioned in that sub-paragraph, the officer may seize the device or medium on which it is stored.”, 30
- (b) in sub-paragraph (8) for “sub-paragraph (7)(a) does” substitute “sub-paragraphs (7) to (7C) do”, and 35
- (c) in sub-paragraph (8A) for “sub-paragraph (7)” substitute “this paragraph”.
- (5) In paragraph 25B (search of person arrested under Schedule 2) after sub-paragraph (8) insert – 40
- “(8A) Sub-paragraph (8B) applies where –
- (a) an officer is searching a person under this paragraph, and
- (b) any document the officer has reasonable grounds for believing is a document within sub-paragraph (3)(b) is stored in any electronic form on a device or medium found on the person. 45

- (8B) The officer may require the document to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
- (8C) If a requirement under sub-paragraph (8B) is not complied with or a document to which that sub-paragraph applies cannot be produced in a form of the kind mentioned in that sub-paragraph, the officer may seize the device or medium on which it is stored. 5
- (8D) Sub-paragraphs (8B) and (8C) do not apply to a document which the officer has reasonable grounds for believing is an item subject to legal privilege.” 10

## 20 Search of premises in connection with imposition of civil penalty

- (1) This section applies if an immigration officer is lawfully on any premises.
- (2) The immigration officer may search the premises for documents which might be of assistance in determining whether a person is liable to the imposition of a penalty under – 15
- (a) section 15 of the Immigration, Asylum and Nationality Act 2006 (penalty for employing illegal worker etc), or
- (b) section 23 or 25 of the Immigration Act 2014 (penalty for leasing premises to disqualified person etc).
- (3) The power may be exercised – 20
- (a) only if the immigration officer has reasonable grounds for believing there are documents within subsection (2) on the premises, and
- (b) only to the extent that it is reasonably required for the purpose of discovering such documents.
- (4) An immigration officer searching premises under this section may seize any document the officer finds which the officer has reasonable grounds for believing is a document within subsection (2). 25
- (5) Subsection (6) applies where –
- (a) an immigration officer is searching premises under this section, and
- (b) any document the officer has reasonable grounds for believing is a document within subsection (2) is stored in any electronic form and is accessible from the premises. 30
- (6) The immigration officer may require the document to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form. 35
- (7) If a requirement under subsection (6) is not complied with or a document to which that sub-paragraph applies cannot be produced in a form of the kind mentioned in that sub-paragraph, the immigration officer may seize the device or medium on which it is stored.
- (8) But subsections (4) to (7) do not apply to a document or item which the immigration officer has reasonable grounds for believing is an item subject to legal privilege. 40
- (9) An immigration officer may retain a document or item seized under this section while the officer has reasonable grounds for believing that the document may be required – 45

- (a) for the purpose of determining whether a person is liable to the imposition of a penalty under a provision mentioned in subsection (2),
  - (b) for the purposes of any objection relating to the imposition of such a penalty, or
  - (c) for the purposes of any appeal or other legal proceedings relating to the imposition of such a penalty. 5
- (10) But a document or item may not be retained for a purpose mentioned in subsection (9) if a photograph or copy would be sufficient for that purpose.
- (11) Section 28I of the Immigration Act 1971 (seized material: access and copying) applies to a document seized and retained under this section as it applies to anything seized and retained under Part 3 of that Act. 10

## 21 Seizure and retention in relation to offences

- (1) This section applies if an immigration officer is lawfully on any premises.
- (2) The immigration officer may seize anything which the officer finds in the course of exercising a function under the Immigration Acts if the officer has reasonable grounds for believing— 15
- (a) that it has been obtained in consequence of the commission of an offence, and
  - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed. 20
- (3) The immigration officer may seize anything which the officer finds in the course of exercising a function under the Immigration Acts if the officer has reasonable grounds for believing—
- (a) that it is evidence in relation to an offence, and
  - (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed. 25
- (4) The immigration officer may require any information which is stored in any electronic form and is accessible from the premises to be produced if the officer has reasonable grounds for believing— 30
- (a) that—
    - (i) it is evidence in relation to an offence, or
    - (ii) it has been obtained in consequence of the commission of an offence, and
  - (b) that it is necessary to seize it in order to prevent it being concealed, lost, tampered with or destroyed. 35
- (5) The reference in subsection (4) to information which is stored in any electronic form being produced is to such information being produced in a form—
- (a) in which it can be taken away, and
  - (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form. 40
- (6) This section does not authorise an immigration officer to seize an item which the officer has reasonable grounds for believing is an item subject to legal privilege.
- (7) Anything seized by an immigration officer under this section which relates to an immigration offence may be retained so long as is necessary in all the circumstances and in particular— 45

- (a) may be retained, except as provided for by subsection (8) –
    - (i) for use as evidence at a trial for an offence, or
    - (ii) for forensic examination or for investigation in connection with an offence, and
  - (b) may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence. 5
- (8) Nothing may be retained for a purpose mentioned in subsection (7)(a) if a photograph or copy would be sufficient for that purpose.
- (9) Section 28I of the Immigration Act 1971 (seized material: access and copying) applies to anything seized and retained under this section which relates to an immigration offence as it applies to anything seized and retained by an immigration officer under Part 3 of that Act. 10
- (10) This section does not apply in relation to anything which may be seized by an immigration officer under – 15
  - (a) section 19 of the Police and Criminal Act 1984 as applied by an order under section 23 of the Borders, Citizenship and Immigration Act 2009, or
  - (b) Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12) as applied by that section. 20
- (11) In this section and section 22 “immigration offence” means an offence which relates to an immigration or nationality matter.

## 22 Duty to pass on items seized under section 21

- (1) This section applies if an immigration officer exercises –
  - (a) the power under section 21 to seize or take away an item on the basis that the item or information contained in it has been obtained in consequence of the commission of, or is evidence in relation to, an offence other than an immigration offence (“a relevant offence”), or
  - (b) a power to that effect in Part 3 of the Immigration Act 1971 as applied by section 14(3) of the Asylum and Immigration (Treatment of Claimants etc) Act 2004. 30
- (2) Subject to subsection (3), the immigration officer must, as soon as is reasonably practicable after the power is exercised, notify a person who the immigration officer thinks has functions in relation to the investigation of the relevant offence. 35
- (3) If the item referred to in subsection (1) has also been obtained in consequence of the commission of, or is evidence in relation to, an immigration offence, the immigration officer may notify a person who the immigration officer thinks has functions in relation to the investigation of the relevant offence.
- (4) A person notified under this section of the exercise of a power mentioned in subsection (1) in relation to an item must, as soon as is reasonably practicable after being so notified, inform the immigration officer whether the person will accept the item. 40
- (5) The person may inform the immigration officer that the person will not accept the item only if – 45

- 
- (a) the person does not think the item or information contained in it has been obtained in consequence of the commission of, or is evidence in relation to, an offence,
- (b) the person does not have functions in relation to the investigation of the relevant offence, or 5
- (c) the person thinks that it would be more appropriate for the relevant offence to be investigated by another person with such functions.
- (6) If the person informs the immigration officer that the person will accept the item, the immigration officer must give it to the person as soon as is reasonably practicable. 10
- (7) Once the item has been given as mentioned in subsection (6), any provision of an enactment which applies to items seized or taken away by the person applies to the item as if it had been seized or taken away by the person for the purposes of the investigation of the relevant offence.
- (8) If the person informs the immigration officer that the person will not accept the item because subsection (5)(a) applies, the immigration officer must, as soon as is reasonably practicable, return the item in accordance with subsection (10). 15
- (9) If the person informs the immigration officer that the person will not accept the item because subsection (5)(b) or (c) applies, the immigration officer must, as soon as is reasonably practicable – 20
- (a) notify the exercise of a power mentioned in subsection (1) in relation to the item to another person (if any) who the immigration officer thinks has functions in relation to the investigation of the relevant offence, or
- (b) if there is no such person, return the item in accordance with subsection (10). 25
- (10) An item which must be returned in accordance with this subsection must be returned –
- (a) to the person from whom it was seized, or
- (b) if there is no such person, to the place from which it was seized or taken away. 30
- (11) Where an item to which this section applies or information contained in such an item has been obtained in consequence of the commission of, or is evidence in relation to, more than one offence, references in this section to the relevant offence are to any of those offences.
- (12) A function conferred or imposed by this section on an immigration officer may be exercised by any other immigration officer. 35
- (13) In this section “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, 40
- (c) an enactment contained, or in an instrument made under, a Measure or Act of the National Assembly for Wales, and
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation. 45

### **23 Retention of things seized under Part 3 of the Immigration Act 1971**

After section 28H of the Immigration Act 1971 insert –

#### **“28ZI Retention of seized material**

- (1) This section applies to anything seized by an immigration officer under this Part for the purposes of the investigation of an offence or on the basis that it may be evidence relating to an offence. 5
- (2) Anything seized as mentioned in subsection (1) may be retained so long as is necessary in all the circumstances and in particular –
  - (a) may be retained, except as provided for by subsection (3) –
    - (i) for use as evidence at a trial for an offence, or 10
    - (ii) for forensic examination or for investigation in connection with an offence, and
  - (b) may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence. 15
- (3) Nothing may be retained for a purpose mentioned in subsection (2)(a) if a photograph or copy would be sufficient for that purpose.”

### **24 Search for nationality documents by detainee custody officers etc**

- (1) The Secretary of State may direct a detainee custody officer, prison officer or prisoner custody officer to exercise any of the powers in subsection (6) in relation to –
  - (a) a detained person who is detained in a removal centre, prison or young offender institution, or
  - (b) a person who is detained in a short-term holding facility. 20
- (2) The Secretary of State may direct a prison officer or prisoner custody officer to exercise any of the powers in subsection (6) in relation to a person detained in a prison or young offender institution –
  - (a) who has been recommended for deportation by a court under section 3(6) of the Immigration Act 1971,
  - (b) in respect of whom the Secretary of State has made, or intends to make, a deportation order under section 5(1) of that Act, or 30
  - (c) in respect of whom the Secretary of State must make, or has made, a deportation order under section 32(5) of the UK Borders Act 2007.
- (3) In this section and section 25 “relevant officer” means a detainee custody officer, prison officer or prisoner custody officer. 35
- (4) The Secretary of State may give a direction in relation to a person detained as mentioned in subsection (1) or (2) only if the Secretary of State has reasonable grounds to believe a relevant nationality document will be found if a power in subsection (6) is exercised in relation to the person.
- (5) A relevant officer to whom a direction is given under subsection (1) or (2) must (if able to do so) comply with it. 40
- (6) The powers referred to subsections (1), (2) and (4) are –
  - (a) to require the person to hand over to the relevant officer all relevant nationality documents in his or her possession,

- 
- (b) to search for such documents and to take possession of any that the relevant officer finds,
    - (c) to inspect any relevant nationality documents obtained in the course of the exercise of a power in paragraph (a) or (b), and
    - (d) to seize and retain any such documents so obtained. 5
  - (7) The power in subsection (6)(b) is a power to search any of the following –
    - (a) the person;
    - (b) anything the person has with him or her;
    - (c) the person’s accommodation in the removal centre, short-term holding facility, prison or young offender institution; 10
    - (d) any item of the person’s property in the removal centre, short-term holding facility, prison or young offender institution.
  - (8) A strip search may be carried out under subsection (7)(a); but such a search may not be carried out in the presence of –
    - (a) another person detained as mentioned in subsection (1) or (2), or 15
    - (b) a person of the opposite sex.
  - (9) An intimate search may not be carried out under subsection (7)(a).
  - (10) A relevant officer may if necessary use reasonable force for the purposes of exercising a power in subsection (6)(a) or (b).
  - (11) A relevant officer must pass a relevant nationality document seized and retained under subsection (6)(d) to the Secretary of State as soon as is reasonably practicable. 20
  - (12) The Secretary of State may retain a relevant nationality document which comes into the Secretary of State’s possession under subsection (11) while the Secretary of State suspects that –
    - (a) a person to whom the document relates 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 removal. 25
  - (13) If subsection (12) does not apply to a document which comes into the Secretary of State’s possession under this section, the Secretary of State may –
    - (a) arrange for the document to be returned in accordance with subsection (14), or
    - (b) if the Secretary of State thinks that it would not be appropriate to return the document, dispose of the document in such manner as the Secretary of State thinks appropriate. 35
  - (14) A document which is required to be returned in accordance with this subsection must be returned to –
    - (a) the person who was previously in possession of it, or
    - (b) if it was not found in the possession of a person, the location in which it was found. 40
  - (15) In this section and section 25 –
    - “intimate search” means a search which consists of a physical examination of a person’s body orifices other than the mouth;
    - “nationality document” means a document which might –
      - (a) establish a person’s identity, nationality or citizenship, or 45

- (b) indicate the place from which a person has travelled to the United Kingdom or to which a person is proposing to go.
- “strip search” means a search which involves the removal of an item of clothing which –
- (a) is being worn wholly or partly on the trunk, and 5
  - (b) is being so worn either next to the skin or next to an article of underwear.
- (16) For the purposes of this section and section 25 a nationality document is “relevant” if it relates to a person who is liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts. 10
- (17) In this section the following expressions have the same meaning as in Part 7 of the Immigration and Asylum Act 1999 (see section 147) –
- “detained person”;
  - “detainee custody officer”;
  - “prisoner custody officer”;
  - “removal centre”;
  - “short-term holding facility”.
- 15
- 25 Seizure of nationality documents by detainee custody officers etc**
- (1) A relevant officer may seize a nationality document which the relevant officer finds in the course of the exercise of a power to search other than one conferred by section 24. 20
- (2) Where a relevant officer seizes a nationality document under subsection (1), the relevant officer –
- (a) must seek the consent of the Secretary of State to retain the document, and
  - (b) if the relevant officer obtains the Secretary of State’s consent, must pass the document to the Secretary of State as soon as is practicable. 25
- (3) The Secretary of State may give consent under subsection (2) only if the Secretary of State has reasonable grounds to believe that –
- (a) the document is a relevant nationality document, and
  - (b) the document may facilitate the removal of the person to whom it relates from the United Kingdom in accordance with a provision of the Immigration Acts. 30
- (4) If the Secretary of State does not give consent under subsection (2), the Secretary of State must –
- (a) direct the relevant officer to return the document as mentioned in subsection (5), or
  - (b) if the Secretary of State thinks that it would not be appropriate to return the document, direct the relevant officer to dispose of the document in such manner as the Secretary of State may direct. 35
- 40
- (5) A document which is required to be returned in accordance with this subsection must be returned to –
- (a) the person who was previously in possession of it, or
  - (b) if it was not found in the possession of a person, the location in which it was found. 45

- (6) The Secretary of State may retain a relevant nationality document which comes into the Secretary of State’s possession under this section while the Secretary of State suspects that—
- (a) a person to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and 5
  - (b) retention of the document may facilitate the removal.
- (7) If subsection (6) does not apply to a document which comes into the Secretary of State’s possession under this section, the Secretary of State may—
- (a) arrange for the document to be returned in accordance with subsection (5), or 10
  - (b) if the Secretary of State thinks that it would not be appropriate to return the document, dispose of the document in such manner as the Secretary of State thinks appropriate.
- 26 Amendments relating to sections 24 and 25 15**
- (1) Schedule 11 to the Immigration and Asylum Act 1999 (detainee custody officers) is amended as follows.
  - (2) In paragraph 4 (offence of assaulting detainee custody officer)—
    - (a) omit the “or” at the end of paragraph (b), and
    - (b) at the end of paragraph (c) insert “, or 20
    - (d) performing functions under section 24 of the Immigration Act 2016 (search for nationality documents),”.
  - (3) In paragraph 5 (offence of obstructing detainee custody officer)—
    - (a) omit the “or” at the end of paragraph (b), and 25
    - (b) at the end of paragraph (c) insert “, or
    - (d) performing functions under section 24 of the Immigration Act 2016 (search for nationality documents),”.
  - (4) After paragraph 8 insert— 30
 

“9 A reference in paragraph 4(d) or 5(d) to a detainee custody officer performing functions under section 24 of the Immigration Act 2016 includes a reference to a prison officer or prisoner custody officer performing such functions.”
- 27 Amendments to search warrant provisions 35**
- Schedule 4 (amendments to search warrant provisions) has effect.
- 28 Interpretation of Part**
- (1) In this Part “immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971. 40
  - (2) In this Part “premises” and “item subject to legal privilege” have the same meaning—

- (a) in relation to England and Wales, as in the Police and Criminal Evidence Act 1984;
- (b) in relation to Northern Ireland, as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12));
- (c) in relation to Scotland, as in section 412 of the Proceeds of Crime Act 2002. 5

*Immigration bail*

**29 Immigration bail**

- (1) Schedule 5 (immigration bail) has effect.
- (2) In that Schedule— 10
  - (a) Part 1 contains the main provisions about immigration bail, and
  - (b) Part 2 contains amendments to other Acts.
- (3) A person may be released and remain on bail under paragraph 22 or 29 of Schedule 2 to the Immigration Act 1971 even if the person can no longer be detained under a provision of the Immigration Acts to which that paragraph applies, if the person is liable to detention under such a provision. 15
- (4) The reference in subsection (3) to paragraph 22 or 29 of Schedule 2 to the Immigration Act 1971 includes that paragraph as applied by any other provision of the Immigration Acts.
- (5) The amendment made by subsection (3) is to be treated as always having had effect. 20
- (6) Subsections (3) to (5) are repealed on the coming into force of the repeal of paragraphs 22 and 29 of Schedule 2 to the Immigration Act 1971 by paragraph 16 of Schedule 5.

*Power to cancel leave* 25

**30 Power to cancel leave extended under section 3C of the Immigration Act 1971**

- (1) In section 3C of the Immigration Act 1971 (continuation of leave pending variation decision) after subsection (3) insert—
  - “(3A) Leave extended by virtue of this section may be cancelled if the applicant— 30
    - (a) has failed to comply with a condition attached to the leave, or
    - (b) has used or uses deception in seeking leave to remain (whether successfully or not).”
- (2) In section 4(1) of that Act (persons by whom and means by which powers are to be exercised) after “conditions)” insert “or to cancel any leave under section 3C(3A)”. 35

**PART 4**

## APPEALS

- 31 Appeals within the United Kingdom: certification of human rights claims**
- (1) Section 94B of the Nationality, Immigration and Asylum Act 2002 (appeals from within the United Kingdom: certification of human rights claims made by persons liable to deportation) is amended in accordance with subsections (2) to (5). 5
- (2) In the heading omit “made by persons liable to deportation”.
- (3) In subsection (1) omit the words from “who is liable” to the end of paragraph (b). 10
- (4) In subsection (2) for the words from “removal” to “removed” substitute “refusing P entry to, removing P from or requiring P to leave the United Kingdom”.
- (5) In subsection (3) for the words from “removed” in the first place it appears to “removed” in the second place it appears substitute “refused entry to, removed from or required to leave the United Kingdom”. 15
- (6) In section 92(3)(a) of that Act (cases where human rights claim appeal must be brought from outside the United Kingdom) omit “made by persons liable to deportation”.
- 32 Continuation of leave: repeals** 20
- (1) In the Immigration Act 1971 omit section 3D (continuation of leave following revocation).
- (2) In section 2(2)(a) of the Special Immigration Appeals Commission Act 1997 (jurisdiction: appeals) omit “or 3D”.
- (3) In section 120(4)(b) of the Nationality, Immigration and Asylum Act 2002 (requirement to state additional grounds for application etc) omit “or 3D”. 25
- (4) In consequence of the repeals made by this section, the following are repealed –
- (a) paragraph 14(b)(i) of Schedule 1 to the Immigration, Asylum and Nationality Act 2006, and 30
- (b) paragraph 22 of Schedule 9 to the Immigration Act 2014.
- (5) The repeals made by this section do not apply in relation to a person (“P”) where –
- (a) P’s leave was extended by virtue of section 3D of the Immigration Act 1971 immediately before 6 April 2015, and 35
- (b) immediately before the coming into force of this section an appeal by P against the variation or revocation of P’s leave to enter or remain in the United Kingdom was pending within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002.

**33 Deemed refusal of leave to enter: repeals**

- (1) In the Immigration Act 1971 omit paragraph 2A(9) of Schedule 2 (deemed refusal of leave to enter).
- (2) In consequence of the repeal made by this section, paragraph 23 of Schedule 9 to the Immigration Act 2014 is repealed. 5
- (3) The repeals made by this section do not apply in relation to a person if, immediately before the coming into force of this section, the person’s appeal by virtue of paragraph 2A(9) of Schedule 2 to the Immigration Act 1971 against the cancellation of the person’s leave to enter under paragraph 2A(8) of that Schedule was pending within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002. 10

**PART 5**

SUPPORT FOR CERTAIN CATEGORIES OF MIGRANT

**34 Support for certain categories of migrant**

- Schedule 6 (support for certain categories of migrant) has effect. 15

**PART 6**

BORDER SECURITY

**35 Penalties relating to airport control areas**

- (1) In paragraph 26 of Schedule 2 to the Immigration Act 1971 (supplementary duties of those connected with ships or aircraft or with ports) after sub-paragraph (3A) insert – 20  
“(4) Part 1A of this Schedule makes provision for and in connection with the imposition of a penalty for certain breaches of sub-paragraph (2) or (3).”
- (2) In that Schedule after Part 1 insert the Part 1A set out in Schedule 7. 25

**36 Maritime enforcement**

- Schedule 8 (maritime enforcement) has effect.

**37 Persons excluded from the United Kingdom under international obligations**

- (1) In section 8 of the Immigration Act 1971 (exceptions for seamen, aircrews and other special cases) in subsection (5) after “expired” insert “or otherwise ceased to be in force”. 30
- (2) In section 8A of that Act (persons ceasing to be exempt) after subsection (3) insert –  
“(4) References in this section to a person who ceases to be exempt do not include a person who ceases to be exempt by virtue of section 8B(3).” 35
- (3) Section 8B of that Act (persons excluded from the United Kingdom under international obligations) is amended as follows.

- (4) In subsection (1) after paragraph (b) insert –  
“(and any leave given to a person who is an excluded person is invalid)”.
- (5) For subsection (3) substitute –  
“(3) Any exemption of a person from the provisions of this Act under section 8(1), (2) or (3) does not apply while the person is an excluded person.” 5
- (6) In subsection (4) for “a designated instrument” substitute “an instrument falling within subsection (5)”.
- (7) In subsection (5) for “The Secretary of State may by order designate an instrument” substitute “An instrument falls within this subsection” 10
- (8) After subsection (5) insert –  
“(5A) Subsection (1), (2) or (3) does not apply to a person if –  
(a) the application of that subsection to that person would be contrary to the United Kingdom’s obligations under – 15  
(i) the Human Rights Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999), or  
(ii) the Refugee Convention (within the meaning given by that provision), or 20  
(b) the person has been exempted from the application of that subsection under a process applying by virtue of the instrument falling within subsection (5).”
- (9) Omit subsections (6) to (8).

## PART 7 25

### LANGUAGE REQUIREMENTS FOR PUBLIC SECTOR WORKERS

#### 38 English language requirements for public sector workers

- (1) A public authority must ensure that each person who works for the public authority in a customer-facing role speaks fluent English.
- (2) In determining how to comply with subsection (1), a public authority must have regard to the code of practice under section 41 that is for the time being applicable to that authority. 30
- (3) A public authority must operate an adequate procedure for enabling complaints to be made to the authority about breaches by the authority of subsection (1) and for the consideration of such complaints. 35
- (4) In determining whether a procedure is adequate for the purposes of subsection (3), a public authority must have regard to the code of practice under section 41 that is for the time being applicable to that authority.
- (5) For the purposes of this Part a person works for a public authority if the person works – 40  
(a) under a contract of employment with the public authority,  
(b) under a contract of apprenticeship with the public authority,

- (c) under a contract to do work personally with the public authority,
  - (d) as an agency worker within the meaning of the Agency Workers Regulations 2010 (SI 2010/93) in respect of whom the public authority is the hirer within the meaning of those regulations,
  - (e) for the public authority as a constable, or 5
  - (f) for the public authority in the course of Crown employment.
- (6) In subsection (5) “Crown employment” –
- (a) has the meaning given by section 191(3) of the Employment Rights Act 1996, and
  - (b) includes service as a member of the armed forces of the Crown and employment by an association established for the purposes of Part 11 of the Reserve Forces Act 1996. 10
- (7) References in this Part to a person who works in a customer-facing role are to a person who, as a regular and intrinsic part of the person’s role, is required to speak to members of the public in English. 15
- (8) For the purposes of this Part a person speaks fluent English if the person has a command of spoken English which is sufficient to enable the effective performance of the person’s role.
- (9) This section applies in relation to a person who is working in a customer-facing role for a public authority when this section comes into force as well as to a person who begins to work in such a role after that time. 20
- (10) This section does not apply in relation to a person whose work is carried out wholly or mainly outside the United Kingdom.

### **39 Meaning of “public authority”**

- (1) Subject as follows, in this Part “public authority” means a person with functions of a public nature. 25
- (2) A person is not a public authority for the purposes of this Part if, apart from this subsection, the person would be a public authority for those purposes merely because the person exercises functions on behalf of another public authority. 30
- (3) A person who exercises functions in relation to Scotland is a public authority for the purposes of this Part only if and to the extent that those functions relate to a reserved matter.
- (4) In subsection (3) “Scotland” and “reserved matter” have the same meanings as in the Scotland Act 1998. 35
- (5) The following are not public authorities for the purposes of this Part –
  - (a) the Security Service;
  - (b) the Secret Intelligence Service;
  - (c) the Government Communications Headquarters.
- (6) The relevant Minister may by regulations amend subsection (5) so as to add, modify or remove a reference to a person or description of person with functions of a public nature. 40

**40 Power to expand meaning of person working for public authority**

- (1) The relevant Minister may by regulations amend section 38 with the effect that a person who works for a contractor of a public authority is a person who works for the authority for the purposes of this Part.
- (2) In subsection (1) “contractor”, in relation to a public authority, means a person who –
- (a) provides a service to members of the public as a result of an arrangement made with a public authority (whether or not by that person), but
  - (b) is not a public authority.
- (3) For the purposes of subsection (1) a person works for a contractor if the person works –
- (a) under a contract of employment with the contractor,
  - (b) under a contract of apprenticeship with the contractor,
  - (c) under a contract to do work personally with the contractor, or
  - (d) as an agency worker within the meaning of the Agency Workers Regulations 2010 (SI 2010/93) in respect of whom the contractor is the hirer within the meaning of those regulations.

**41 Duty to issue codes of practice**

- (1) The relevant Minister must issue a code or codes of practice for the purposes of section 38.
- (2) A code of practice must include provision about the following matters –
- (a) the standard of spoken English to be met by a person working for a public authority to which the code applies in a customer-facing role;
  - (b) the action available to such a public authority where such a person does not meet that standard;
  - (c) the procedure to be operated by such a public authority for enabling complaints to be made to the authority about breaches by the authority of section 38(1) and for the consideration of such complaints;
  - (d) how the public authority is to comply with its other legal obligations as well as complying with the duty in section 38(1).
- (3) A code of practice may make such other provision as the relevant Minister considers appropriate for securing that a person who works for a public authority to which the code applies in a customer-facing role speaks fluent English.
- (4) A code of practice may make provision in relation to –
- (a) all public authorities,
  - (b) particular descriptions of public authority, or
  - (c) particular public authorities.
- (5) But the relevant Minister must ensure that there is at all times a code of practice in force which applies to each public authority.
- (6) A code of practice may make different provision for different purposes, including different provision for different public authorities or descriptions of public authority.

#### **42 Procedure for codes of practice**

- (1) In preparing a code of practice the relevant Minister must consult such persons as the relevant Minister thinks appropriate.
- (2) Before issuing a code of practice the relevant Minister must lay a draft of the code before Parliament. 5
- (3) A code of practice comes into force in accordance with provision made by regulations made by the relevant Minister.
- (4) After a code of practice has come into force the relevant Minister must publish it in such manner as the relevant Minister thinks appropriate.
- (5) The relevant Minister may from time to time review a code of practice and may revise and re-issue it following a review. 10
- (6) References in subsections (1) to (4) to a code of practice include a revised code.

#### **43 Application of Part to Wales**

- (1) Subsection (2) makes provision about the application of this Part in relation to— 15
  - (a) a public authority that exercises functions only in Wales, and
  - (b) a public authority that exercises functions in both England and Wales, to the extent that it exercises functions in Wales.
- (2) In the provisions of this Part listed in subsection (3) references to English are to be read as references to English or Welsh. 20
- (3) Those provisions are—
  - (a) section 38(1), (7) and (8), and
  - (b) section 41(2)(a) and (3).

#### **44 Interpretation of Part**

- In this Part— 25
- “contract” means a contract whether express or implied and, if express, whether oral or in writing;
- “public authority” has the meaning given by section 39;
- “relevant Minister” means the Secretary of State or the Chancellor of the Duchy of Lancaster. 30

#### **45 Crown application**

This Part binds the Crown.

## PART 8

## FEES AND CHARGES

*Immigration***46 Immigration skills charge**

- (1) The Immigration Act 2014 is amended as follows. 5
- (2) After section 70 insert—
- “70A Immigration skills charge**
- (1) *The Secretary of State may by regulations provide for a charge to be imposed on—*
- (a) *persons who make immigration skills arrangements, or* 10
- (b) *any description of such persons.*
- (2) “Immigration skills arrangements” are arrangements made by a person (“the sponsor”) with the Secretary of State with a view to securing that an individual who is not exempt for the purposes of this section is granted entry clearance or leave to remain in the United Kingdom to enable the individual to work for the sponsor in the United Kingdom. 15
- (3) Regulations under this section may in particular—
- (a) impose a separate charge on a sponsor in respect of each individual in relation to whom the sponsor makes immigration skills arrangements; 20
- (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 sponsor failing to pay a charge; 25
- (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) *Sums paid by virtue of regulations under this section must—* 30
- (a) *be paid into the Consolidated Fund, or*
- (b) *be applied in such other way as the regulations may specify.*
- (5) Regulations under this section may be made only with the consent of the Treasury.
- (6) An individual is exempt for the purposes of this section if he or she is— 35
- (a) a British citizen;
- (b) a national of an EEA State other than the United Kingdom;
- (c) a national of Switzerland;
- (d) otherwise 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. 40

- (7) In this section “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971.”
- (3) In section 74(2) (orders and regulations which are subject to affirmative resolution procedure) after paragraph (j) insert—
- “(ja) regulations under section 70A;”.

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*Passports and civil registration*

**47 Power to make passport fees regulations**

- (1) *The Secretary of State may by regulations provide for fees to be charged in respect of the exercise by the Secretary of State of such functions in connection with applications for the issue of a passport or other travel document as may be specified.*
- (2) Regulations under subsection (1) are referred to in this section and section 48 as “passport fees regulations”.
- (3) Passport fees regulations must provide for the fee in respect of the exercise of each specified function to comprise one or more amounts each of which is—
- (a) a specified fixed amount, or
- (b) an amount calculated by reference to a specified hourly rate or other specified factor.
- (4) Provision made under subsection (3) may be intended to result in a fee in respect of a specified function which exceeds the costs of exercising the function.
- (5) In specifying the amount of any fee, or hourly rate or other factor, the Secretary of State may have regard only to the costs of exercising—
- (a) the function;
- (b) any other function of the Secretary of State in connection with United Kingdom passports or other UK travel documents;
- (c) any consular function.
- This is subject to section 48(5).
- (6) In respect of any fee provided for under this section, passport 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.
- (7) In this section—
- “consular function” means—
- (a) any of the functions described in Article 5 of the Vienna Convention on Consular Relations set out in Schedule 1 to the Consular Relations Act 1968;
- (b) any function in the United Kingdom which corresponds to a function mentioned in paragraph (a);

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- in each case regardless of whether the function is exercised by a consular officer or by another person authorised by the Secretary of State;
- “costs” includes –
- (a) the costs of the Secretary of State, and 5
  - (b) the costs of any other person (whether or not funded from public money);
- “function” includes a power or a duty;
- “specified” means specified in passport fees regulations;
- “travel document” means a document which enables or facilitates travel from one state to another and a “UK travel document” means such a document issued by the Secretary of State; 10
- “United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33 of that Act).
- (8) Any reference in this section to the exercise of a function includes a reference to its exercise in particular circumstances, including its exercise – 15
- (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 or persons making requests for the exercise of a function. 20
- 48 Passport fees regulations: supplemental**
- (1) Passport fees regulations may be made only with the consent of the Treasury.
- (2) A fee under section 47 may relate to something done outside the United Kingdom. 25
- (3) Fees payable by virtue of section 47 may be recovered as a debt due to the Secretary of State.
- (4) *Fees paid to the Secretary of State by virtue of section 47 must be –*
- (a) *paid into the Consolidated Fund, or* 30
  - (b) *applied in such other way as passport fees regulations may specify.*
- (5) Section 47 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 35
  - (c) any other power to charge a fee.
- 49 Power to charge for passport validation services**
- (1) *The Secretary of State may charge a fee in respect of the provision of passport validation services to persons on request.*
- (2) “Passport validation services” are services in connection with confirming the validity of United Kingdom passports or the accuracy of the information contained in them which are provided for the purpose of preventing or detecting crime. 40

- (3) In this section “United Kingdom passport” has the same meaning as in the Immigration Act 1971 (see section 33 of that Act).
- (4) A fee payable under this section may be recovered as a debt due to the Secretary of State.
- (5) *Fees paid to the Secretary of State under this section must be –* 5
  - (a) *paid into the Consolidated Fund, or*
  - (b) applied in such other way as the Secretary of State may by regulations specify.
- (6) Regulations under subsection (5) may be made only with the consent of the Treasury. 10
- (7) This section 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. 15

## 50 Civil registration fees

- (1) Schedule 9 (civil registration fees) has effect.
- (2) In that Schedule –
  - (a) Part 1 amends enactments about civil registration in connection with powers to make regulations for the charging of fees, and 20
  - (b) Part 2 makes consequential and related amendments.

## PART 9

### FINAL PROVISIONS

## 51 Financial provisions

- The following are to be paid out of money provided by Parliament –* 25
- (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown, a person holding office under Her Majesty or a government department, and*
  - (b) *any increase attributable to the Act in the sums payable under any other Act out of money so provided.* 30

## 52 Transitional and consequential provision

- (1) The Secretary of State may by regulations 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 regulations make such provision as the Secretary of State considers appropriate in consequence of this Act. 35
- (3) The provision that may be made by regulations 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; 5
  - (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 (meaning of “the Immigration Acts”) – 10
- (a) omit the “and” at the end of paragraph (i), and
  - (b) at the end of paragraph (j) insert “, and
  - (k) the Immigration Act 2016.”

### 53 Regulations

- (1) Regulations made by the Secretary of State under this Act are to be made by statutory instrument. 15
- (2) A statutory instrument containing any of the following regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament –
- (a) regulations under section 3 which amend or repeal any provision of section 2, 4, 5, 6 or 7, 20
  - (b) regulations under section 10(2),
  - (c) regulations under section 15(1) or (2),
  - (d) regulations under section 39(6),
  - (e) regulations under section 40(1), 25
  - (f) passport fees regulations within the meaning of section 47 which include provision specifying functions as mentioned in subsection (1) of that section,
  - (g) regulations under section 52(2) which amend or repeal primary legislation, 30
  - (h) regulations under paragraph 1(12) of Schedule 2, and
  - (i) regulations under paragraph 2(7) of that Schedule.
- (3) Primary legislation means any of the following – 35
- (a) an Act of Parliament;
  - (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 regulations made by the Secretary of State under this Act is subject to annulment in pursuance of a resolution of either House of Parliament. 40
- (5) Subsection (4) does not apply to regulations under section 52(1) or 54(1).
- (6) Regulations made by the Secretary of State under this Act – 45
- (a) may make different provision for different purposes or areas,
  - (b) may make provision which applies generally or for particular purposes or areas,

- (c) may make transitional, transitory or saving provision, or
- (d) may make incidental, supplementary or consequential provision.

#### 54 Commencement

- (1) Subject to subsections (3) to (5) this Act comes into force on such day as the Secretary of State appoints by regulations. 5
- (2) Regulations under subsection (1) may appoint different days for different purposes or areas.
- (3) Section 46 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) Subsections (3) to (5) of section 29 come into force on the day on which this Act is passed. 10
- (5) This Part comes into force on the day on which this Act is passed.

#### 55 Extent

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, subject as follows. 15
- (2) Part 7 extends to England and Wales and Scotland only.
- (3) Any amendment, repeal or revocation made by this Act has the same extent within the United Kingdom as the provision to which it relates.
- (4) 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. 20
- (5) A power under any provision listed in subsection (6) may be exercised so as to extend (with or without modifications) to any of the Channel Islands or the Isle of Man any amendment or repeal made by or under this Act of any part of an Act to which the provision listed in subsection (6) relates. 25
- (6) Those provisions are –
  - (a) section 36 of the Immigration Act 1971,
  - (b) section 52(2) of the Civil Jurisdiction and Judgments Act 1982,
  - (c) section 9(3) of the Special Immigration Appeals Commission Act 1997,
  - (d) section 170(7) of the Immigration and Asylum Act 1999, 30
  - (e) section 163(4) of the Nationality, Immigration and Asylum Act 2002,
  - (f) section 49(3) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004,
  - (g) section 63(3) of the Immigration, Asylum and Nationality Act 2006,
  - (h) section 60(4) of the UK Borders Act 2007, and 35
  - (i) section 76(6) of the Immigration Act 2014.

#### 56 Short title

This Act may be cited as the Immigration Act 2016.

## SCHEDULES

### SCHEDULE 1

Section 10

#### LICENSING ACT 2003: AMENDMENTS RELATING TO ILLEGAL WORKING

##### PART 1

##### ENTITLEMENT TO WORK IN THE UNITED KINGDOM

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1 After section 192 of the Licensing Act 2003 insert –

**“192A Entitlement to work in the United Kingdom**

(1) For the purposes of this Act an individual is entitled to work in the United Kingdom if –

(a) the individual does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or

(b) the individual has been granted such leave and the leave –

(i) is not invalid,

(ii) has not ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), and

(iii) is not subject to a condition preventing the individual from doing work relating to the carrying on of a licensable activity within section 1(1)(a) or (d).

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(2) Where an individual is on immigration bail within the meaning of Part 1 of Schedule 5 to the Immigration Act 2016 –

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(a) the individual is to be treated for the purposes of subsection (1) as if the individual had been granted leave to enter the United Kingdom, but

(b) any condition as to the individual’s work in the United Kingdom to which the individual’s immigration bail is subject is to be treated for those purposes as a condition of leave.”

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##### PART 2

##### PREMISES LICENCES

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2 Part 3 of the Licensing Act 2003 (premises licences) is amended as follows.

3 In section 13(4) (meaning of “responsible authority”), after paragraph (h)

- insert –
- “(ha) where the premises (not being a vessel) are being, or are proposed to be, used for a licensable activity within section 1(1)(a) or (d), the Secretary of State.”.
- 4 (1) Section 16 (applicant for premises licence) is amended as follows. 5
- (2) In subsection (1), at the beginning insert “Subject to subsections (2) and (2A).”.
- (3) In subsection (2), omit “But”.
- (4) After subsection (2) insert –
- “(2A) An individual who is resident in the United Kingdom may not apply for a premises licence authorising premises to be used for a licensable activity within section 1(1)(a) or (d) unless the individual is entitled to work in the United Kingdom.” 10
- 5 In section 27 (death, incapacity, insolvency etc of licence holder), after subsection (1) insert – 15
- “(1A) A premises licence that authorises premises to be used for a licensable activity within section 1(1)(a) or (d) also lapses if the holder of the licence ceases to be entitled to work in the United Kingdom at a time when the holder of the licence is resident in the United Kingdom (or becomes so resident without being entitled to work in the United Kingdom).” 20
- 6 (1) Section 42 (application for transfer of premises licence) is amended as follows.
- (2) After subsection (2) insert –
- “(2A) Where the applicant is an individual who is resident in the United Kingdom and the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d) he must also be entitled to work in the United Kingdom.” 25
- (3) After subsection (5) insert –
- “(5ZA) Where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), the relevant person must also give notice of the application to the Secretary of State.” 30
- (4) In subsection (5A), for “subsection (5)” substitute “subsections (5) and (5ZA)”.
- (5) After subsection (7) insert – 35
- “(8) Where the Secretary of State is given notice under subsection (5ZA) and is satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must give the relevant licensing authority a notice stating the reasons for being so satisfied. 40
- (9) The Secretary of State must give that notice within the period of 14 days beginning with the day on which the Secretary of State is notified of the application under subsection (5ZA).”

- 
- 7 (1) Section 44(5) (determination of transfer application) is amended as follows.
- (2) In the words before paragraph (a), after “section 42(6)” insert “or (8)”.
- (3) In paragraph (a), for “chief officer of police” substitute “person”.
- (4) For paragraph (b) substitute –
- “(b) having regard to the notice – 5
- (i) where the notice is given under section 42(6), reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or
- (ii) where the notice is given under section 42(8), reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.” 10
- 8 (1) Section 45 (notification of determination under section 44) is amended as follows. 15
- (2) In subsection (2) –
- (a) after “that section” insert “or the Secretary of State gave a notice under subsection (8) of that section”;
- (b) for “(and it” substitute “(which, in either case,”
- (3) After subsection (2) insert – 20
- “(2A) Where the Secretary of State gave a notice under subsection (8) of section 42 (which was not withdrawn), the notice under subsection (1) of this section must also be given to the Secretary of State.”
- 9 (1) Section 47 (interim authority notice following death etc of licence holder) is amended as follows. 25
- (2) In subsection (1) –
- (a) after “or (c)” insert “or (1A)”;
- (b) after “holder” insert “or change of immigration status”.
- (3) In subsection (3), after “subject to” insert “subsection (3A) and”.
- (4) After subsection (3) insert – 30
- “(3A) Where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), a person falling within subsection (2)(a) or (b) who is an individual who is resident in the United Kingdom may give an interim authority notice only if the person is entitled to work in the United Kingdom.” 35
- (5) In subsection (7), after paragraph (a) insert –
- “(aa) where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), at the end of the initial 28 day period unless before that time the person who gave the interim authority notice has given a copy of the notice to the Secretary of State;” 40
- (6) In subsection (7A) –
- (a) in paragraph (a), for “subsection (7)(a) does” substitute “paragraphs (a) and (aa) of subsection (7) do”;

- (b) in paragraph (b), at the end insert “and, where the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d), to the Secretary of State.”
- 10 (1) Section 48 (cancellation of interim authority notice following police objections) is amended as follows. 5
- (2) In the heading, omit “police”.
- (3) In subsection (1), for “This section” substitute “Subsection (2)”.
- (4) After subsection (2) insert –
- “(2A) Subsection (2B) applies where –
- (a) an interim authority notice by a person (“the relevant person”) is given in accordance with section 47, 10
- (b) the Secretary of State is given a copy of the interim authority notice before the end of the initial 28 day period (within the meaning of that section), and
- (c) the Secretary of State is satisfied that the exceptional circumstances of the case are such that a failure to cancel the interim authority notice would be prejudicial to the prevention of illegal working in licensed premises. 15
- (2B) The Secretary of State must before the end of the second working day following receipt of the copy of the interim authority notice give the relevant licensing authority a notice stating why the Secretary of State is so satisfied.” 20
- (5) In subsection (3) –
- (a) in the words before paragraph (a), for “by the chief officer of police” substitute “under subsection (2) or (2B)”;
- (b) in paragraph (a), for “chief officer of police” substitute “person who gave the notice”;
- (c) for paragraph (b) substitute –
- “(b) having regard to the notice –
- (i) where the notice is given under subsection (2), cancel the interim authority notice if it considers it appropriate for the promotion of the crime prevention objective to do so, or 30
- (ii) where the notice is given under subsection (2B), cancel the interim authority notice if it considers it appropriate for the prevention of illegal working in licensed premises to do so.” 35
- (6) In subsection (5) –
- (a) for “to the” substitute “to –
- (a) where the interim authority notice is cancelled under subsection (3)(b)(i), the”; 40
- (b) at the end insert –
- “(b) where the interim authority notice is cancelled under subsection (3)(b)(ii), the Secretary of State.”
- 11 In section 50 (reinstatement of licence on transfer following death etc of holder), in subsection (3), for “(who, in the case of an individual, is aged 18 45

or over)” substitute “(and who would, where applicable, satisfy subsections (2) and (2A) of section 42)”.

### PART 3

#### PERSONAL LICENCES

- |    |   |    |
|----|---|----|
| 12 | Part 6 of the Licensing Act 2003 (personal licences) is amended as follows.   | 5  |
| 13 | (1) Section 113 (meaning of “relevant offence” and “foreign offence”) is amended as follows.  |    |
|    | (2) In the heading, for “and “foreign offence”” substitute “, “immigration offence”, “foreign offence” and “immigration penalty””.  |    |
|    | (3) After subsection (2) insert –   | 10 |
|    | “(2A) In this Part “immigration offence” means –  |    |
|    | (a) an offence referred to in paragraph 7A of Schedule 4, or  |    |
|    | (b) an offence listed in paragraph 24 or 25 of Schedule 4 that is committed in relation to an offence referred to in paragraph 7A of that Schedule.”  | 15 |
|    | (4) At the end insert –   |    |
|    | “(4) In this Part “immigration penalty” means a penalty under –   |    |
|    | (a) section 15 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”), or   |    |
|    | (b) section 23 of the Immigration Act 2014 (“the 2014 Act”).  | 20 |
|    | (5) For the purposes of this Part a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty if –                         |    |
|    | (a) the person is excused payment by virtue of section 15(3) of that Act, or  | 25 |
|    | (b) the penalty is cancelled by virtue of section 16 or 17 of that Act.   |    |
|    | (6) For the purposes of this Part a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as –         | 30 |
|    | (a) the period for giving a notice of objection under section 16 of that Act has expired and the Secretary of State has considered any notice given within that period, and   |    |
|    | (b) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn. | 35 |
|    | (7) For the purposes of this Part a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty if –                         | 40 |
|    | (a) the person is excused payment by virtue of section 24 of that Act, or   |    |

- (b) the penalty is cancelled by virtue of section 29 or 30 of that Act.
- (8) For the purposes of this Part a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as – 5
- (a) the period for giving a notice of objection under section 29 of that Act has expired and the Secretary of State has considered any notice given within that period, and
- (b) if a notice of objection was given within that period, the period for appealing under section 30 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.” 10
- 14 (1) Section 115 (period of validity of personal licence) is amended as follows.
- (2) In subsection (2), after “subsections” insert “(2A),” 15
- (3) After subsection (2) insert –
- “(2A) A personal licence ceases to have effect if the holder of the licence ceases to be entitled to work in the United Kingdom.”
- 15 (1) Section 120 (determination of application for grant) is amended as follows.
- (2) In subsection (2) – 20
- (a) after paragraph (a) insert –
- “(aa) he is entitled to work in the United Kingdom,”;
- (b) in paragraph (d), at the end insert “or required to pay an immigration penalty”.
- (3) In subsection (3), for “paragraph (a), (b) or (c)” substitute “any of paragraphs (a) to (c)” 25
- (4) In subsection (4), for “(a), (b) and (c)” substitute “(a) to (c)”.
- (5) After subsection (5) insert –
- “(5A) If it appears to the authority that the applicant meets the conditions in paragraphs (a) to (c) of subsection (2) but fails to meet the condition in paragraph (d) of that subsection by virtue of having been – 30
- (a) convicted of an immigration offence,
- (b) convicted of a foreign offence that the authority considers to be comparable to an immigration offence, or 35
- (c) required to pay an immigration penalty,
- the authority must give the Secretary of State a notice to that effect.
- (5B) Where, having regard to –
- (a) any conviction of the applicant for an immigration offence,
- (b) any conviction of the applicant for a foreign offence which the Secretary of State considers to be comparable to an immigration offence, and 40
- (c) the applicant having been required to pay any immigration penalty,

- the Secretary of State is satisfied that granting the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must, within the period of 14 days beginning with the day the Secretary of State received the notice under subsection (5A), give the authority a notice stating the reasons for being so satisfied (an “immigration objection notice”).” 5
- (6) In subsection (6), for “is given within that period (or the notice is withdrawn)” substitute “or immigration objection notice is given within the period of 14 days referred to in subsection (5) or (5B) (as the case may be), or any such notice given is withdrawn,”. 10
- (7) In subsection (7) –
- (a) in the words before paragraph (a), for “In any other case,” substitute “Where an objection notice or an immigration objection notice is given within the period of 14 days referred to in subsection (5) or (5B) (as the case may be), and not withdrawn,”; 15
- (b) in paragraph (a) –
- (i) omit “objection”;
- (ii) for “chief officer of police” substitute “person who gave the notice”;
- (c) for paragraph (b) substitute – 20
- “(b) having regard to the notice, must –
- (i) where the notice is an objection notice, reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or 25
- (ii) where the notice is an immigration objection notice, reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.”
- (8) After subsection (7) insert – 30
- “(7A) An application that is not rejected by the authority under subsection (7)(b) must be granted by it.”
- 16 (1) Section 122 (notification of determinations) is amended as follows.
- (2) In subsection (1) –
- (a) after “objection notice” insert “or the Secretary of State gave an immigration objection notice”; 35
- (b) after “(which” insert “, in either case,”.
- (3) After subsection (2) insert –
- “(2A) Where the Secretary of State gave an immigration objection notice (which was not withdrawn) the notice under subsection (1)(a) or (2), as the case may be, must also be given to the Secretary of State.” 40
- (4) In subsection (3), in the definition of “objection notice”, for “has” substitute “and “immigration objection notice” have”.
- 17 (1) Section 123 (duty to notify licensing authority of convictions during application period) is amended as follows. 45
- (2) In the heading, after “convictions” insert “etc”.

- (3) In subsection (1) –
- (a) after “application period” insert “, or is required to pay an immigration penalty during that period”;
  - (b) after “conviction” insert “or the requirement to pay (as the case may be)”.
- 18 (1) Section 124 (convictions coming to light after grant) is amended as follows.
- (2) In subsection (1) –
- (a) for “(“the offender”)” substitute “(“the licence holder”)”;
  - (b) at the end insert “or was required during that period to pay an immigration penalty”.
- (3) In subsection (3)(a), for “applicant” substitute “licence holder”.
- (4) After subsection (3) insert –
- “(3A) Where the licence holder was (during the application period) –
- (a) convicted of an immigration offence,
  - (b) convicted of a foreign offence that the licensing authority considers to be comparable to an immigration offence, or
  - (c) required to pay an immigration penalty,
- the authority must give the Secretary of State a notice to that effect.
- (3B) Where, having regard to –
- (a) any conviction of the applicant for an immigration offence which occurred before the end of the application period,
  - (b) any conviction of the applicant for a foreign offence which the Secretary of State considers to be comparable to an immigration offence and which occurred before the end of the application period, and
  - (c) the applicant having been required before the end of the application period to pay any immigration penalty,
- the Secretary of State is satisfied that continuation of the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must, within the period of 14 days beginning with the day the Secretary of State received the notice under subsection (3A), give the authority a notice stating the reasons for being so satisfied (an “immigration objection notice”).”
- (5) In subsection (4) –
- (a) in the words before paragraph (a), for “is given within that period” substitute “or an immigration objection notice is given within the period of 14 days referred to in subsection (3) or (3B), as the case may be,”;
  - (b) in paragraph (a) –
    - (i) omit “objection”;
    - (ii) for “holder of the licence, the chief officer of police” substitute “licence holder, the person who gave the notice”;
  - (c) in paragraph (b), for the words from “revoke” to the end of the paragraph substitute “ –
    - (i) where the notice is an objection notice, revoke the licence if it considers it appropriate for the

- promotion of the crime prevention objective  
to do so, or
- (ii) where the notice is an immigration objection  
notice, revoke the licence if it considers it  
appropriate for the prevention of illegal  
working in licensed premises to do so.” 5
- (6) In subsection (5), for “offender and the chief officer of police” substitute  
“licence holder and the person who gave the notice”.
- 19 (1) Section 125(3) (form of personal licence) is amended as follows.
- (2) For “of each” substitute “of – 10  
(a) each”.
- (3) At the end insert –  
“(b) each immigration penalty that the holder has been required  
to pay and the date of each notice by which such a penalty  
was imposed.” 15
- 20 (1) Section 132 (licence holder’s duty to notify licensing authority of  
convictions) is amended as follows.
- (2) In the heading, after “convictions” insert “etc”.
- (3) After subsection (2) insert –  
“(2A) Subsection (2B) applies where the holder of a personal licence is 20  
required to pay an immigration penalty.  
(2B) The holder must, as soon as reasonably practicable after being  
required to pay the penalty, give the relevant licensing authority a  
notice containing details of the penalty, including the date of the  
notice by which the penalty was imposed.” 25
- (4) In subsection (3), after “(2)” insert “or (2B)”.
- 21 In Schedule 4 (personal licence: relevant offences), after paragraph 7 insert –  
“7A An offence under any of the Immigration Acts.”
- PART 4
- RIGHTS OF ENTRY 30
- 22 (1) Section 179 of the Licensing Act 2003 (rights of entry to investigate licensable  
activities) is amended as follows.
- (2) After subsection (1) insert –  
“(1A) Where an immigration officer has reason to believe that any  
premises are being used for a licensable activity within section 1(1)(a) or (d), the officer may enter the premises with a view to seeing  
whether an offence under any of the Immigration Acts is being  
committed in connection with the carrying on of the activity.” 35
- (3) In subsection (2) –  
(a) after “authorised person” insert “or an immigration officer”; 40  
(b) for “the power”, in the first place it occurs, substitute “a power”.

- (4) In subsection (3), for “the power” substitute “a power”.
- (5) In subsection (4), after “authorised person” insert “or an immigration officer”.
- (6) In subsection (6) –
- (a) omit “and” at the end of the definition of “authorisation”;
  - (b) at the end of the subsection insert –  
““immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.”
- PART 5
- APPEALS
- 23 Schedule 5 to the Licensing Act 2003 (appeals) is amended as follows.
- 24 (1) Paragraph 6 (transfer of licence) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) after “42(6)” insert “or the Secretary of State gave a notice under section 42(8)”;
  - (b) after “(which)” insert “, in either case,”.
- (3) In sub-paragraph (2), after “police” insert “or the Secretary of State, as the case may be,”.
- 25 (1) Paragraph 7 (interim authority notice) is amended as follows.
- (2) In sub-paragraph (1)(b) –
- (a) after “48(2)” insert “or the Secretary of State gives a notice under section 48(2B)”;
  - (b) after “(which)” insert “, in either case,”.
- (3) In sub-paragraph (3), for “the notice under that subsection,” substitute “the interim authority notice under section 48(3) after the giving of a notice by a chief officer of police under section 48(2),”.
- (4) After sub-paragraph (3) insert –
- “(3A) Where the relevant licensing authority decides not to cancel the interim authority notice under section 48(3) after the giving of a notice by the Secretary of State under section 48(2B), the Secretary of State may appeal against that decision.”
- 26 In paragraph 9 (general provision about appeals under Part 1 of Schedule 5), in sub-paragraph (4), after “paragraph 7(3)” insert “or (3A)”.
- 27 (1) Paragraph 17 (personal licences) is amended as follows.
- (2) In sub-paragraph (2) –
- (a) for “section 120(7)” substitute “120(7A) after the giving of a notice under section 120(5)”;
  - (b) for “objection notice (within the meaning of section 120(5))” substitute “notice”.

- (3) After sub-paragraph (2) insert –
- “(2A) Where a licensing authority grants an application for a personal licence under section 120(7A) after the giving of a notice under section 120(5B), the Secretary of State may appeal against that decision.” 5
- (4) After sub-paragraph (5) insert –
- “(5A) Where in a case to which section 124 applies –
- (a) the Secretary of State gives a notice under subsection (3B) of that section (and does not later withdraw it), and
- (b) the licensing authority decides not to revoke the licence, 10
- the Secretary of State may appeal against the decision.”
- (5) In sub-paragraph (8), for “(2), (3) or (5)” substitute “(2), (2A), (5) or (5A)”.
- 28 At the end insert –
- “PART 4
- QUESTIONS ABOUT LEAVE TO ENTER OR REMAIN IN THE UK 15
- 19 On an appeal under this Schedule, a magistrates’ court is not entitled to entertain any question as to whether –
- (a) an individual should be, or should have been, granted leave to enter or remain in the United Kingdom, or
- (b) an individual has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.” 20
- PART 6
- GENERAL
- 29 (1) Section 193 of the Licensing Act 2003 (other definitions) is amended as follows. 25
- (2) The existing text becomes subsection (1).
- (3) After that subsection insert –
- “(2) For the purposes of references in this Act to the prevention of illegal working in licensed premises, a person is working illegally if by doing that work at that time the person is committing an offence under section 24B of the Immigration Act 1971.” 30
- 30 In section 194 of the Licensing Act 2003 (index of defined expressions), insert the following entries at the appropriate places –
- |  |  |               |    |
|--|--|---------------|----|
| “entitled to<br>work in the<br>United<br>Kingdom |  | section 192A” | 35 |
|--|--|---------------|----|

“immigration offence	section 113”	
“immigration penalty (and required to pay, in relation to an immigration penalty)	section 113”	5
“working illegally, in relation to the prevention of illegal working in licensed premises	section 193”	10  15

PART 7

TRANSITIONAL PROVISION

31	The amendment of section 27 of the Licensing Act 2003 made by paragraph 5 of this Schedule does not apply in relation to a premises licence granted before the coming into force of that paragraph.	20
32	The amendments of section 115 of the Licensing Act 2003 made by paragraph 14 of this Schedule do not apply in relation to a personal licence granted before the coming into force of that paragraph.	25
33	The amendment of Schedule 4 to the Licensing Act 2003 made by paragraph 21 of this Schedule applies on and after the coming into force of that paragraph in relation to— (a) personal licences granted before, on or after the coming into force of that paragraph, and (b) offences committed before, on or after the coming into force of that paragraph.	30

SCHEDULE 2

Section 11

ILLEGAL WORKING CLOSURE NOTICES AND ILLEGAL WORKING COMPLIANCE ORDERS

<i>Illegal working closure notices</i>		35
1	(1) An immigration officer of at least the rank of chief immigration officer may issue an illegal working closure notice in respect of premises if satisfied on	

- reasonable grounds that the conditions in sub-paragraphs (3) and (5) are met.
- (2) An illegal working closure notice is a notice which prohibits, for a period specified in the notice –
- (a) access to the premises other than by a person who habitually lives on the premises, except where authorised in writing by an immigration officer; 5
  - (b) paid or voluntary work being performed on the premises, except where so authorised.
- (3) The condition in this sub-paragraph is that an employer operating at the premises is employing a person over the age of 16 and subject to immigration control –
- (a) who has not been granted leave to enter or remain in the United Kingdom, or
  - (b) whose leave to enter or remain in the United Kingdom – 15
    - (i) is invalid,
    - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
    - (iii) is subject to a condition preventing the person from accepting the employment. 20
- (4) A person falling within sub-paragraph (3) is referred to in this Schedule as an “illegal worker”.
- (5) The condition in this sub-paragraph is that the employer, or a connected person in relation to the employer –
- (a) has been convicted of an offence under section 21 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”), 25
  - (b) has, during the period of three years ending with the date on which the illegal working closure notice is issued, been required to pay a penalty under section 15 of the 2006 Act, or
  - (c) has at any time been required to pay such a penalty and failed to pay it. 30
- (6) Sub-paragraph (5)(a) does not apply in relation to a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27)). 35
- (7) For the purposes of sub-paragraph (5)(b) and (c) –
- (a) a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay the penalty if –
    - (i) the person is excused payment by virtue of section 15(3) of that Act, or 40
    - (ii) the penalty is cancelled by virtue of section 16 or 17 of that Act;
  - (b) a person to whom such a notice has been given is not to be treated as having been required to pay the penalty until such time as – 45
    - (i) the period for giving a notice of objection under section 16 of the 2006 Act has expired and the Secretary of State has considered any notice given within that period, and

- (ii) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.
- (8) For the purposes of sub-paragraph (5), a person is a connected person in relation to an employer if – 5
  - (a) where the employer is a body corporate, the person is –
    - (i) a director, manager or secretary of the body corporate,
    - (ii) purporting to act as a director, manager or secretary of the body corporate, or 10
    - (iii) if the affairs of the body corporate are managed by its members, a member of the body corporate;
  - (b) where the employer is a partnership (whether or not a limited partnership), the person is a partner or purporting to act as a partner;
  - (c) where the employer is an individual, the person is – 15
    - (i) a body corporate of which the individual has at any time been a director, manager or secretary,
    - (ii) a body corporate in relation to which the individual has at any time purported to act as a director, manager or secretary,
    - (iii) a body corporate whose affairs are managed by its members and the individual has at any time been a member of the body corporate, 20
    - (iv) a partnership (whether or not a limited partnership) in which the individual has at any time been a partner or in relation to which the individual has at any time purported to act as a partner. 25
- (9) An illegal working closure notice may not be issued if the employer shows in relation to the employment of each illegal worker that if a penalty notice were given under section 15 of the 2006 Act the employer would be excused under subsection (3) of that section from paying the penalty. 30
- (10) An illegal working closure notice may be issued only if reasonable efforts have been made to inform –
  - (a) people who live on the premises (whether habitually or not), and
  - (b) any person who has an interest in the premises,that the notice is going to be issued. 35
- (11) Before issuing an illegal working closure notice the immigration officer must ensure that any person the officer thinks appropriate has been consulted.
- (12) The Secretary of State may by regulations amend sub-paragraph (1) to change the rank specified in that sub-paragraph.
- 2 (1) An illegal working closure notice must – 40
  - (a) identify the premises;
  - (b) explain the effect of the notice;
  - (c) state that failure to comply with the notice is an offence;
  - (d) state that an application will be made under paragraph 5 for an illegal working compliance order; 45
  - (e) specify when and where the application will be heard;
  - (f) explain the effect of an illegal working compliance order.

- 
- (2) The maximum period that may be specified in an illegal working closure notice is 24 hours unless sub-paragraph (3) applies.
- (3) The maximum period is 48 hours if the notice is issued by an immigration officer of at least the rank of immigration inspector.
- (4) In calculating when the period of 48 hours ends, Christmas Day is to be disregarded. 5
- (5) The period specified in an illegal working closure notice to which sub-paragraph (3) does not apply may be extended by up to 24 hours if an extension notice is issued by an officer of at least the rank of immigration inspector. 10
- (6) An extension notice is a notice which –
- (a) identifies the illegal working closure notice to which it relates, and
  - (b) specifies the period of the extension.
- (7) The Secretary of State may by regulations amend sub-paragraph (3) or sub-paragraph (5) to change the rank specified in that sub-paragraph. 15

#### *Cancellation of illegal working closure notices*

- 3 (1) An immigration officer may by the issue of a cancellation notice cancel an illegal working closure notice if the employer shows in relation to the employment of each illegal worker that if a penalty notice were given under section 15 of the 2006 Act the employer would be excused under subsection (3) of that section from paying the penalty. 20
- (2) A cancellation notice may be issued only –
- (a) by an immigration officer of at least the rank of the immigration officer who issued the illegal working closure notice, or
  - (b) where the illegal working closure notice has been extended by an extension notice, by an immigration officer of at least the rank of the immigration officer who issued the extension notice. 25

#### *Service of notices*

- 4 (1) A notice under paragraph 1, 2 or 3 must be served by an immigration officer.
- (2) The immigration officer must if possible – 30
- (a) fix a copy of the notice to at least one prominent place on the premises,
  - (b) fix a copy of the notice to each normal means of access to the premises,
  - (c) fix a copy of the notice to any outbuildings that appear to the immigration officer to be used with or as part of the premises, 35
  - (d) give a copy of the notice to at least one person who appears to the immigration officer to have control of or responsibility for the premises,
  - (e) give a copy of the notice to the people who live on the premises and to any person who does not live there but was informed (under paragraph 1(10)) that the notice was going to be issued. 40
- (3) If the immigration officer reasonably believes, at the time of serving the notice, that there are persons occupying another part of the building or other

structure in which the premises are situated whose access to that part will be impeded if an illegal working compliance order is made under paragraph 5, the immigration officer must also if possible serve the notice on those persons.

- (4) The immigration officer may enter any premises, using reasonable force if necessary, for the purposes of complying with sub-paragraph (2)(a). 5

*Illegal working compliance orders*

- 5 (1) Whenever an illegal working closure notice is issued an application must be made to the court for an illegal working compliance order (unless the notice has been cancelled under paragraph 3). 10
- (2) An application for an illegal working compliance order must be made by an immigration officer.
- (3) The application must be heard by the court not later than 48 hours after service of the illegal working closure notice.
- (4) In calculating when the period of 48 hours ends, Christmas Day is to be disregarded. 15
- (5) The court may make an illegal working compliance order in respect of premises if it is satisfied, on the balance of probabilities –
- (a) that the conditions in paragraph 1(3) and (5) are met, and
  - (b) that it is necessary to make the illegal working compliance order to prevent an employer operating at the premises from employing an illegal worker. 20
- (6) An illegal working compliance order may –
- (a) prohibit or restrict access to the premises;
  - (b) require a person specified in the order to carry out, at such times as may be so specified, such checks relating to the right to work as may be prescribed by the Secretary of State in regulations; 25
  - (c) require a person specified in the order to produce to an immigration officer, at such times and such places as may be so specified, such documents relating to the right to work as may be prescribed by the Secretary of State in regulations; 30
  - (d) specify the times at which and the circumstances in which an immigration officer may enter the premises to carry out such investigations or inspections as may be specified in the order;
  - (e) make such other provision as the court considers appropriate. 35
- (7) Different provisions in an illegal working compliance order may have effect for different periods.
- (8) The maximum period for which an illegal working compliance order or any provision in it may have effect is 12 months.
- (9) Provision included in an illegal working compliance order which prohibits or restricts access may make such provision – 40
- (a) in relation to all persons, all persons except those specified, or all persons except those of a specified description;
  - (b) having effect at all times, or at all times except those specified;

- (c) having effect in all circumstances, or in all circumstances except those specified.
- (10) An illegal working compliance order, or any provision of it, may –
- (a) be made in respect of the whole or any part of the premises;
  - (b) include provision about access to a part of the building or structure of which the premises form part. 5
- (11) The court must notify the relevant licensing authority if it makes an illegal working compliance order in relation to premises in England and Wales in respect of which a premises licence is in force.
- Illegal working compliance orders: adjournment of hearing* 10
- 6 (1) This paragraph applies where an application has been made under paragraph 5 for an illegal working compliance order.
- (2) The court may adjourn the hearing of the application for a period of not more than 14 days to enable any person who has an interest in the premises to show why an illegal working compliance order should not be made. 15
- (3) If the court adjourns the hearing it may order that the illegal working closure notice continues in force until the end of the period of adjournment.
- Extension of illegal working compliance orders*
- 7 (1) An immigration officer may apply to the court for an extension (or further extension) of the period for which any provision of an illegal working compliance order is in force. 20
- (2) The court may grant an application under this paragraph only if it is satisfied, on the balance of probabilities, that it is necessary to grant it to prevent an employer operating at the premises from employing an illegal worker. 25
- (3) Where an application is made under this section, the court may issue a summons directed to –
- (a) any person on whom the illegal working closure notice was served under paragraph 4, or
  - (b) any other person who appears to the court to have an interest in the premises, 30
- requiring the person to appear before the court to respond to the application.
- (4) If a summons is issued, a notice stating the date, time and place of the hearing of the application must be served on the persons to whom the summons is directed. 35
- (5) No application may be granted under this paragraph such that an illegal working compliance order, or any provision in it –
- (a) is extended for a period exceeding 6 months, or
  - (b) is in force for a period exceeding 24 months in total.
- Variation or discharge of illegal working compliance orders* 40
- 8 (1) An application may be made to the court under this paragraph –

- (a) by an immigration officer for an illegal working compliance order to be varied or discharged,
  - (b) by a person on whom the illegal working closure notice was served under paragraph 4, or by any other person who has an interest in the premises, for an illegal working compliance order to be varied or discharged. 5
- (2) Where an application is made under this paragraph, the court may issue a summons directed to –
  - (a) an immigration officer,
  - (b) any person on whom the illegal working closure notice was served under paragraph 4, or 10
  - (c) any other person who appears to the court to have an interest in the premises,
 requiring the person to appear before the court to respond to the application.
- (3) If a summons is issued, a notice stating the date, time and place of the hearing of the application must be served on the persons to whom the summons is directed. 15
- (4) The court may not discharge an illegal working compliance order unless it is satisfied, on the balance of probabilities, that it is no longer necessary to prevent an employer operating at the premises from employing an illegal worker. 20

*Notice and orders: appeals*

- 9 (1) An appeal against a decision –
  - (a) to make, extend or vary an illegal working compliance order;
  - (b) not to discharge an illegal working compliance order; 25
  - (c) to order that an illegal working closure notice continues in force, may be made by a person on whom the illegal working closure notice was served under paragraph 4, or any other person who has an interest in the premises.
- (2) An appeal against a decision – 30
  - (a) not to make an illegal working compliance order;
  - (b) not to extend a provision of an illegal working compliance order, or not to vary such an order, made on the application of an immigration officer;
  - (c) to vary or discharge an illegal working compliance order; 35
  - (d) not to order that an illegal working closure notice continues in force, may be made by an immigration officer.
- (3) An appeal under this paragraph –
  - (a) if it is in relation to premises in England and Wales or Northern Ireland, is to the Crown Court, 40
  - (b) if it is in relation to premises in Scotland, is to the sheriff appeal court.
- (4) An appeal under this paragraph must be made within the period of 21 days beginning with the date of the decision to which it relates.
- (5) On an appeal under this paragraph the court may make whatever order it thinks appropriate. 45

- (6) The court must notify the relevant licensing authority if it makes an illegal working compliance order in relation to premises in England and Wales in respect of which a premises licence is in force.

*Notices and orders: enforcement*

- 10 (1) Where access to premises is prohibited or restricted by virtue of an illegal working closure notice or an illegal working compliance order an immigration officer or a constable may enter the premises and do anything necessary to secure the premises against entry. 5
- (2) A person acting under sub-paragraph (1) may use reasonable force.
- (3) An immigration officer or a constable, together with any person acting under that person's supervision, may also enter such premises to carry out essential maintenance or repairs. 10

*Notices and orders: offences*

- 11 (1) A person who without reasonable excuse remains on or enters premises in contravention of an illegal working closure notice commits an offence. 15
- (2) A person who without reasonable excuse contravenes an illegal working compliance order commits an offence.
- (3) A person who without reasonable excuse obstructs a person acting under paragraph 4 or paragraph 5(1) commits an offence.
- (4) A person guilty of an offence under this paragraph is liable on summary conviction – 20
- (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;
- (b) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both; 25
- (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.
- (5) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (4)(a) to 51 weeks is to be read as a reference to 6 months. 30

*Access to other premises*

- 12 (1) Where – 35
- (a) access to premises is prohibited or restricted by a provision of an illegal working compliance order,
- (b) those premises are part of a building or structure, and
- (c) there is another part of that building or structure that is not subject to the prohibition or restriction,
- an occupier or owner of that other part may apply to the court for an order under this paragraph. 40
- (2) Notice of an application under this paragraph must be given to –
- (a) whatever immigration officer the court thinks appropriate;

- (b) each person on whom the illegal working closure notice was served under paragraph 4,
  - (c) any other person who has an interest in the premises.
- (3) On an application under this paragraph the court may make whatever order it thinks appropriate in relation to access to any part of the building or structure mentioned in sub-paragraph (1). 5
- (4) For the purposes of sub-paragraph (3), it does not matter whether provision has been made under paragraph 5(10)(b).

*Reimbursement of costs*

- 13 (1) Where the Secretary of State incurs expenditure for the purpose of clearing, securing or maintaining premises in respect of which an illegal working compliance order is in force, the Secretary of State may apply to the court for an order under this paragraph. 10
- (2) On an application under this paragraph the court may make whatever order it thinks appropriate for the reimbursement (in full or in part) by the owner or occupier of the premises of the expenditure mentioned in sub-paragraph (1). 15
- (3) An application for an order under this paragraph may not be heard unless it is made before the end of the period of 3 months starting with the day on which the illegal working compliance order ceases to have effect. 20
- (4) An order under this paragraph may be made only against a person who has been served with the application for the order.

*Exemption from liability*

- 14 (1) Each of the following – 25
- (a) the Secretary of State,
  - (b) an immigration officer,
  - (c) a police officer,
  - (d) the chief officer of police under whose direction or control a police officer acts,
- is not liable for damages in proceedings for judicial review or the tort of negligence or misfeasance in public office, arising out of anything done or omitted to be done by the person in the exercise or purposed exercise of a power under this Schedule. 30
- (2) Sub-paragraph (1) does not apply to an act or omission shown to have been in bad faith. 35
- (3) Sub-paragraph (1) does not apply so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- (4) This paragraph does not affect any other exemption from liability (whether at common law or otherwise). 40

*Compensation*

- 15 (1) Subject to sub-paragraph (4), a person who claims to have incurred financial loss in consequence of an illegal working closure notice or an illegal working compliance order may apply to the court for compensation.
- (2) An application under this paragraph may not be heard unless it is made before the end of the period of 3 months starting with the day on which the notice or order ceases to have effect. 5
- (3) On an application under this paragraph the court may order the payment of compensation out of money provided by Parliament if it is satisfied –
- (a) that the applicant is not otherwise associated with the use of the premises on the basis of which the notice or order was made; 10
  - (b) if the applicant is the owner or occupier of the premises, that the applicant took reasonable steps to prevent that use;
  - (c) that the applicant has incurred financial loss in consequence of the notice or order; 15
  - (d) that having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
- (4) No application may be made under this paragraph in relation to financial loss related to a person’s work; and for this purpose “work” includes –
- (a) employment; 20
  - (b) work under a contract personally to do work;
  - (c) work under or for the purposes of a contract for services;
  - (d) work for a purpose related to a contract to sell goods.

*Guidance*

- 16 (1) The Secretary of State may issue guidance about the exercise of functions under this Schedule. 25
- (2) The Secretary of State may revise any guidance issued under this paragraph.
- (3) Before issuing or revising guidance under this paragraph the Secretary of State must consult –
- (a) persons whom the Secretary of State considers to represent the views of immigration officers and of chief officers of police, and 30
  - (b) such other persons as the Secretary of State considers appropriate.
- (4) The Secretary of State must arrange for any guidance issued or revised under this paragraph to be published.

*Interpretation*

- 17 (1) In this Schedule –
- “court”, except where the context otherwise requires, means –
- (a) in relation to premises in England and Wales or Northern Ireland, the magistrates’ court; 40
  - (b) in relation to premises in Scotland, the sheriff court;
- “owner” in relation to premises, means –
- (a) a person (other than a mortgagee not in possession) entitled to dispose of the fee simple of the premises, whether in possession or in reversion;

- (b) a person who holds or is entitled to the rents and profits of the premises under a lease that (when granted) was for a term of not less than 3 years;
  - “person who has an interest”, in relation to premises, includes –
    - (a) the owner; 5
    - (b) any person with control of or responsibility for the premises;
    - (c) any person who otherwise occupies the premises;
  - “premises” includes –
    - (a) any land, vehicle, vessel or other place (whether enclosed or not); 10
    - (b) any outbuildings that are, or are used as, part of premises;
  - “premises licence” has the meaning given by section 11 of the Licensing Act 2003;
  - “relevant licensing authority” has the meaning given by section 12 of that Act. 15
- (2) In this Schedule –
- (a) a reference to employment is to employment under a contract of service or apprenticeship, whether express or implied and whether oral or written;
  - (b) a person is subject to immigration control if under the Immigration Act 1970 the person requires leave to enter or remain in the United Kingdom. 20

*Amendment of Licensing Act 2003*

- 18 After section 167(1) of the Licensing Act 2003 insert –
- “(1A) This section also applies where a court has made an illegal working compliance order under Schedule 2 to the Immigration Act 2016 and the relevant licensing authority has accordingly received a notice under that Schedule.” 25

SCHEDULE 3

Section 18

BANK ACCOUNTS

30

- 1 The Immigration Act 2014 is amended as follows.
- 2 After section 40 (prohibition on opening current accounts for disqualified persons) insert –
- “40A Requirement to carry out immigration checks in relation to current accounts** 35
- (1) A bank or building society must, at such times or with such frequency as is specified in regulations made by the Treasury, carry out an immigration check in relation to each current account held with it that is not an excluded account.
  - (2) For the purposes of this section carrying out an “immigration check” in relation to a current account means checking whether, according to information supplied by the Secretary of State to a specified anti- 40

fraud organisation or a specified data-matching authority, the account is operated by or for a disqualified person.

- (3) A “disqualified person” is a person –
  - (a) who is in the United Kingdom,
  - (b) who requires leave to enter or remain in the United Kingdom but does not have it, and
  - (c) for whom the Secretary of State considers that a current account should not be provided by a bank or building society.
- (4) A current account is an excluded account for the purposes of subsection (1) if the account is operated by or for a person or body of a description specified in regulations made by the Treasury. 10
- (5) An account is operated by or for a person or body if the person or body is an account holder or a signatory or identified as a beneficiary in relation to the account. 15
- (6) A bank or building society must –
  - (a) make arrangements with a specified anti-fraud organisation or a specified data-matching authority for the purpose of enabling the bank or building society to carry out immigration checks in relation to current accounts, and
  - (b) pay any reasonable fee required to be paid under those arrangements.
- (7) In this section “specified anti-fraud organisation” and “specified data-matching authority” have the same meaning as in section 40(3)(a). 25

#### **40B Requirement to notify existence of current accounts for disqualified persons**

- (1) This section applies where, as a result of an immigration check carried out under section 40A, a bank or building society identifies a current account that is operated by or for a person who the bank or building society believes to be a disqualified person. 30
- (2) Where this section applies, the bank or building society (as the case may be) must as soon as reasonably practicable –
  - (a) notify the Secretary of State that a current account held with it is operated by or for a person who it believes to be a disqualified person, and
  - (b) provide the Secretary of State with such other information as may be prescribed.
- (3) A notification made, or information provided, under subsection (2) must be made or provided in the prescribed form and manner. 40
- (4) In subsections (2) and (3) “prescribed” means prescribed in regulations made by the Treasury.
- (5) Regulations under subsection (2) may (in particular) require the provision of information relating to any accounts held with the bank or building society that are operated by or for the person who is believed to be a disqualified person. 45

**40C Action to be taken by Secretary of State following section 40B notification**

- (1) Where the Secretary of State receives a notification from a bank or building society under section 40B(2) in relation to a person, the Secretary of State must check whether the person is a disqualified person. 5
- (2) If the Secretary of State determines that the person is a disqualified person, the Secretary of State may apply under section 40D for a freezing order in respect of one or more of the accounts held with the bank or building society that are operated by or for the disqualified person. 10
- (3) If the Secretary of State decides not to apply for a freezing order under subsection (2), or decides to apply for a freezing order in respect of one or more but not all of the accounts held with the bank or building society that are operated by or for the disqualified person, the Secretary of State must notify the bank or building society that it is subject to the duty in section 40G(2) in relation to the disqualified person. 15
- (4) A notification made under subsection (3) must contain the prescribed information and be made in the prescribed form and manner. 20
- (5) In subsection (4) “prescribed” means prescribed in regulations made by the Treasury.
- (6) If the Secretary of State determines that the person is not a disqualified person, the Secretary of State must notify the bank or building society accordingly. 25

**40D Freezing orders**

- (1) On an application by the Secretary of State under section 40C(2), the court may make a freezing order in respect of any account specified in the application. 30
- (2) A freezing order in respect of an account is an order that prohibits each person and body by or for whom the account is operated from making withdrawals or payments from the account.
- (3) A freezing order may be made subject to exceptions.
- (4) An exception may (in particular) – 35
  - (a) make provision for the disqualified person to meet his or her reasonable living expenses and reasonable legal expenses;
  - (b) allow another person or body by or for whom the account is operated to make withdrawals or payments from the account. 40
- (5) An application for a freezing order may be made without notice.
- (6) The court may vary or discharge a freezing order made in respect of an account (whether made under this section or on an appeal under section 40E) on an application made by – 45
  - (a) the Secretary of State, or
  - (b) a person or body by or for whom the account is operated.

- (7) If the Secretary of State applies for a freezing order in respect of an account and the order is not made, or the order is made but subsequently discharged, the Secretary of State must notify the bank or building society that it is subject to the duty in section 40G(2) in relation to the disqualified person. 5
- (8) A notification made under subsection (7) must contain the information and be in the form and manner prescribed in regulations made under subsection (4) of section 40C for the purposes of subsection (3) of that section.
- (9) In this section – 10  
 “the court” means –  
 (a) in England and Wales, a magistrates’ court;  
 (b) in Scotland, the sheriff;  
 (c) in Northern Ireland, a court of summary jurisdiction;  
 “the disqualified person” means the person who, following a check under section 40C(1), was determined to be a disqualified person, resulting in the application for the freezing order. 15
- 40E Freezing orders: appeals**
- (1) An appeal may be made to the relevant appeal court against a decision of a court under section 40D. 20
- (2) The right of appeal under subsection (1) is exercisable by –  
 (a) the Secretary of State, and  
 (b) if the decision relates to a freezing order that is in force in respect of an account, a person or body by or for whom the account is operated. 25
- (3) On an appeal under this section the relevant appeal court may make –  
 (a) whatever orders are necessary to give effect to its determination of the appeal; 30  
 (b) whatever incidental or consequential orders appear to it to be just.
- (4) In this section “the relevant appeal court” means –  
 (a) the Crown Court, where the decision appealed against is a decision of a magistrates’ court or a court of summary jurisdiction; 35  
 (b) the Sheriff Appeal Court, where the decision appealed against is a decision of the sheriff.
- 40F Freezing orders: code of practice**
- (1) The Secretary of State must issue a code of practice – 40  
 (a) specifying the factors that the Secretary of State will consider when deciding whether to apply for a freezing order under section 40C(2),  
 (b) outlining the arrangements for keeping a freezing order under review for the purpose of deciding whether to apply under section 40D(6) for its variation or discharge, and 45

- (c) specifying the factors that the Secretary of State will consider when deciding whether to make such an application.
- (2) The Secretary of State must from time to time review the code and may revise and re-issue it following a review.
- (3) The code (or revised code) – 5
  - (a) may not be issued unless a draft has been laid before Parliament, and
  - (b) comes into force in accordance with provision contained in regulations made by the Secretary of State.
- 40G Closure of accounts not subject to freezing order 10**
  - (1) This section applies where –
    - (a) a bank or building society makes a notification under section 40B(2) in relation to a person,
    - (b) the person is determined by the Secretary of State (following a check under section 40C(1)) to be a disqualified person, and 15
    - (c) the bank or building society receives a notification under section 40C(3) or 40D(7) in relation to the disqualified person.
  - (2) Where this section applies the bank or building society must as soon as reasonably practicable close each account held with it that –
    - (a) in the case of a notification under section 40C(3), is operated by or for the disqualified person and is not the subject of an application for a freezing order; 20
    - (b) in the case of a notification under section 40D(7), is operated by or for the disqualified person and in respect of which a freezing order is not in force. 25
  - (3) The bank or building society may delay closing an account which it would otherwise be required to close under subsection (2) if at the time at which it would otherwise be required to close it –
    - (a) the account is overdrawn, or
    - (b) where the account is operated by or for the disqualified person and one or more bodies or other persons, the bank or building society considers that closing the account would significantly adversely affect the interests of any of those other bodies or persons. 30
  - (4) Where subsection (3) applies, closure of the account may be delayed for such period as is reasonable (but not indefinitely). 35
  - (5) If an account falling within subsection (2) is operated by or for the disqualified person and one or more bodies or other persons, the bank or building society is to be treated as having complied with that subsection in relation to that account if, as soon as reasonably practicable, it takes all such steps as are necessary to prevent the account from being operated by or for the disqualified person (instead of closing the account). 40
  - (6) Where the bank or building society closes an account in compliance with this section, it must tell each person or body by or for whom the account is operated, if it may lawfully do so, why it has closed the account. 45

- (7) Where the bank or building society prevents an account from being operated by or for the disqualified person by virtue of subsection (5), it must tell each person or body by or for whom the account is operated, if it may lawfully do so, why it has prevented the account from being operated by or for the disqualified person. 5
- (8) The bank or building society must provide the Secretary of State with information about the steps that it has taken to comply with this section.
- (9) Information provided under subsection (8) must be provided in the prescribed form and manner and at the prescribed times or with the prescribed frequency. 10
- (10) In subsection (9) “prescribed” means prescribed in regulations made by the Treasury.
- 40H Sections 40A to 40G: interpretation**
- (1) This section applies for the purposes of sections 40A to 40G. 15
- (2) “Account” includes a financial product by means of which a payment may be made.
- (3) “Freezing order” has the meaning given by section 40D(2).
- (4) “Disqualified person” has the meaning given by section 40A(3).
- (5) References to an account being operated by or for a person or body are to be read in accordance with section 40A(5).” 20
- 3 (1) Section 41 (regulation by Financial Conduct Authority) is amended as follows.
- (2) In subsection (1), at the end insert “and the requirements imposed on them by sections 40A, 40B and 40G”. 25
- (3) In subsection (2)(a), at the end insert “or immigration checks under section 40A”.
- 4 In section 42 (meaning of “bank” and “building society”), in subsections (1) and (5), for “and 41” substitute “to 41”.
- 5 (1) Section 43 (power to amend) is amended as follows. 30
- (2) In subsection (1)(b), after “40(1)” insert “or the requirement in section 40A(1)”.
- (3) In subsection (1)(c), for “that section” substitute “section 40 or 40A”.
- 6 In section 74 (orders and regulations), in subsection (2) (statutory instruments to which the affirmative resolution procedure applies), after paragraph (b) insert – 35
- “(ba) regulations under section 40A(4);  
    (bb) regulations under section 40B;”.
- 7 (1) Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows. 40
- (2) In subsection (3), for “subsection (4)” substitute “subsections (4) and (4ZA)”.

(3) After subsection (4) insert –

“(4ZA) This section applies to a freezing order made under section 40D of the Immigration Act 2014 by a magistrates’ court in England and Wales or a court of summary jurisdiction in Northern Ireland.”

#### SCHEDULE 4

Section 27

5

#### AMENDMENTS TO SEARCH WARRANT PROVISIONS

#### *Immigration Act 1971 (c. 77)*

- 1 The Immigration Act 1971 is amended as follows.
- 2 (1) Section 28D (entry and search of premises) is amended as follows.
  - (2) In subsection (1) – 10
    - (a) in paragraph (b) for “specified in the application” substitute “mentioned in subsection (1A)”, and
    - (b) at the end of paragraph (e) insert “in relation to each set of premises specified in the application.”
  - (3) After subsection (1) insert – 15

“(1A) The premises referred to in subsection (1)(b) above are –

    - (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or
    - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”). 20
  - (1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied – 25
    - (a) that because of the particulars of the offence referred to in paragraph (a) of subsection (1), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in paragraph (b) of that subsection, and 30
    - (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.
  - (1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant. 35
  - (1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.” 40
- (4) In subsection (2) after “conditions” insert “referred to in subsection (1)(e)”.

- (5) In subsection (7) –
- (a) for “subsection (1)” substitute “this section”,
  - (b) in paragraph (a) for “the reference” substitute “references” and for “a reference” substitute “references”, and
  - (c) in paragraph (b) for “paragraph (b)” substitute “subsection (1)(b)”. 5
- 3 (1) Section 28FB (search for personnel records with warrant) is amended as follows.
- (2) In subsection (1) –
- (a) after “business premises” insert “mentioned in subsection (1A)”, and
  - (b) at the end of paragraph (c) insert “in relation to each set of premises specified in the application.” 10
- (3) After subsection (1) insert –
- “(1A) The premises referred to in subsection (1) above are –
- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or 15
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”). 20
- (1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied –
- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the records referred to in subsection (1)(b), and 25
  - (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched. 30
- (1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant.
- (1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.” 35
- (4) In subsection (2) for “Those conditions are” substitute “The conditions referred to in subsection (1)(c) are”.
- 4 (1) Section 28J (search warrants: safeguards) is amended as follows.
- (2) In subsection (2) – 40
- (a) after paragraph (a) insert –
  - “(aa) if the application is for a warrant authorising entry and search on more than one occasion, state the ground on which the officer applies for such a warrant, and whether the officer seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired;”, and 45

- (b) for paragraph (b) substitute –  
“(b) specify the matters set out in subsection (2A) below;  
and”.
- (3) After subsection (2) insert –
- “(2A) The matters which must be specified pursuant to subsection (2)(b) 5  
above are –
- (a) if the application relates to one or more sets of premises  
specified in the application, each set of premises which it is  
desired to enter and search;
- (b) if the application relates to any premises occupied or 10  
controlled by a person specified in the application –
- (i) as many sets of premises which it is desired to enter  
and search as it is reasonably practicable to specify;
- (ii) the person who is in occupation or control of those 15  
premises and any others which it is desired to enter  
and search;
- (iii) why it is necessary to search more premises than  
those specified under sub-paragraph (i);
- (iv) why it is not reasonably practicable to specify all the 20  
premises which it is desired to enter and search.”
- (4) In subsection (6) at the end insert “unless it specifies that it authorises  
multiple entries”.
- (5) After subsection (6) insert –
- “(6A) If it specifies that it authorises multiple entries, it must also specify 25  
whether the number of entries authorised is unlimited, or limited to  
a specified maximum.”
- (6) In subsection (7) for paragraph (c) substitute –
- “(c) each set of premises to be searched, or (in the case of an all  
premises warrant) the person who is in occupation or control  
of premises to be searched, together with any premises under 30  
the person’s occupation or control which can be specified and  
which are to be searched; and”.
- (7) For subsection (9) substitute –
- “(9) Two copies must be made of a warrant which specifies only one set 35  
of premises and does not authorise multiple entries; and as many  
copies as are reasonably required may be made of any other kind of  
warrant.”
- (8) After subsection (10) insert –
- “(10A) “All premises warrant” means a warrant issued in response to an 40  
application of the kind mentioned in section 28D(1A)(b) or  
28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2.
- (10B) References in this section to a warrant authorising multiple entries is  
to a warrant of the kind mentioned in section 28D(1C) or 28FB(1C) or  
paragraph 25A(6AC) of Schedule 2.”
- 5 (1) Section 28K (execution of warrants) is amended as follows. 45

- (2) After subsection (2) insert –
- “(2A) A person so authorised has the same powers as the officer whom the person accompanies in respect of –
- (a) the execution of the warrant, and
  - (b) the seizure of anything to which the warrant relates. 5
- (2B) But the person may exercise those powers only in the company, and under the supervision, of an immigration officer.”
- (3) In subsection (3) for “one month” substitute “three months”.
- (4) After subsection (3) insert –
- “(3A) If the warrant is an all premises warrant, no premises which are not specified in it may be entered or searched unless an immigration officer of at least the rank of chief immigration officer has in writing authorised them to be entered. 10
- (3B) No premises may be entered or searched for the second or any subsequent time under a warrant which authorises multiple entries unless an immigration officer of at least the rank of chief immigration officer has in writing authorised that entry to those premises.” 15
- (5) In subsection (4)(a) after “and” insert “, if not in uniform,”.
- (6) After subsection (8) insert –
- “(8A) Unless the warrant is a warrant specifying one set of premises only, the officer must comply with subsection (8) separately in respect of each set of premises entered and searched. 20
- (8B) A warrant must be returned in accordance with subsection (9) –
- (a) when it has been executed, or
  - (b) in the case of a specific premises warrant which has not been executed, an all premises warrant or any warrant authorising multiple entries, on the expiry of the period of three months referred to in subsection (3) or sooner.” 25
- (7) In subsection (9) for the words from “A warrant” to “its execution” substitute “The warrant”. 30
- (8) After subsection (13) insert –
- “(13A) In subsection (8B) –
- “specific premises warrant” means a warrant issued in response to an application of the kind mentioned in section 28D(1A)(a) or 28FB(1A)(a) or paragraph 25A(6AA)(a) of Schedule 2; 35
- “all premises warrant” means a warrant issued in response to an application of the kind mentioned in section 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2.
- (13B) The reference in subsection (8B) to a warrant authorising multiple entries is to a warrant of the kind mentioned in section 28D(1C) or 28FB(1C) or paragraph 25A(6AC) of Schedule 2.” 40
- 6 (1) Paragraph 25A of Schedule 2 (search of premises for nationality documents) is amended as follows.

- (2) In sub-paragraph (6A) –
- (a) for “specified in the application” substitute “mentioned in sub-paragraph (6AA)”, and
  - (b) at the end of paragraph (b) insert “in relation to each set of premises specified in the application.” 5
- (3) After sub-paragraph (2) insert –
- “(6AA) The premises referred to in sub-paragraph (6A) above are –
- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or 10
  - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).
- (6AB) If the application is for an all premises warrant, the justice of the peace must also be satisfied – 15
- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the relevant documents, and 20
  - (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.
- (6AC) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant. 25
- (6AD) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.”
- (4) In sub-paragraph (6B) after “conditions” insert “mentioned in sub-paragraph (6A)(b)”. 30
- (5) In sub-paragraph (6C) for “sub-paragraph (6A)” substitute “sub-paragraphs (6A) to (6AC)”. 30

*UK Borders Act 2007 (c. 30)*

- 7 (1) Section 45 of the UK Borders Act 2007 (search of premises for nationality documents) is amended as follows. 35
- (2) In subsection (2) –
- (a) in paragraph (b) for “specified in the application” substitute “mentioned in subsection (1A)”, and
  - (b) at the end of paragraph (d) insert “in relation to each set of premises specified in the application.” 40
- (3) After subsection (2) insert –
- “(2A) The premises referred to in subsection (2)(b) above are –

- (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or
- (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”). 5
- (2B) If the application is for an all premises warrant, the justice of the peace must also be satisfied –
- (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the nationality documents, and 10
- (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched. 15
- (2C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice issues the warrant. 20
- (2D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.”
- (4) In subsection (3) after “conditions” insert “mentioned in subsection (2)(d)”.

## SCHEDULE 5

Section 29

## IMMIGRATION BAIL 25

## PART 1

## MAIN PROVISIONS

*Power to grant immigration bail*

- 1 (1) The Secretary of State may grant a person bail if –
- (a) the person is being detained under paragraph 16(1), (1A) or (2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal), 30
- (b) the person is being detained under paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation),
- (c) the person is being detained under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal), or 35
- (d) the person is being detained under section 36(1) of the UK Borders Act 2007 (detention pending deportation).
- (2) The Secretary of State may grant a person bail if the person is liable to detention under a provision mentioned in sub-paragraph (1). 40

- (3) The First-tier Tribunal may, on an application made to the Tribunal for the grant of bail to a person, grant that person bail if—
- (a) the person is being detained under paragraph 16(1), (1A) or (2) of Schedule 2 to the Immigration Act 1971,
  - (b) the person is being detained under paragraph 2(1), (2) or (3) of Schedule 3 to that Act, 5
  - (c) the person is being detained under section 62 of the Nationality, Immigration and Asylum Act 2002, or
  - (d) the person is being detained under section 36(1) of the UK Borders Act 2007. 10
- (4) In this Schedule references to the grant of immigration bail, in relation to a person, are to the grant of bail to that person under any of sub-paragraphs (1) to (3) or under paragraph 8(11) or (12) (release following arrest for breach of bail conditions).
- (5) A person may be granted and remain on immigration bail even if the person can no longer be detained, if— 15
- (a) the person is liable to detention under a provision mentioned in sub-paragraph (1), or
  - (b) the Secretary of State is considering whether to make a deportation order against the person under section 5(1) of the Immigration Act 1971. 20
- (6) A grant of immigration bail to a person does not prevent the person’s subsequent detention under a provision mentioned in sub-paragraph (1).
- (7) For the purposes of this Schedule a person is on immigration bail from when a grant of immigration bail to the person commences to when it ends. 25
- (8) A grant of immigration bail to a person ends when—
- (a) in a case where sub-paragraph (5) applied to the person, that sub-paragraph no longer applies to the person,
  - (b) the person is granted leave to enter or remain in the United Kingdom, 30
  - (c) the person is detained under a provision mentioned in sub-paragraph (1), or
  - (d) the person is removed from or otherwise leaves the United Kingdom.
- (9) This paragraph is subject to paragraph 3 (exercise of power to grant immigration bail). 35

*Conditions of immigration bail*

- 2 (1) If immigration bail is granted to a person, it must be granted subject to one or more of the following conditions—
- (a) a condition requiring the person to appear before the Secretary of State or the First-tier Tribunal at a specified time and place; 40
  - (b) a condition restricting the person’s work, occupation or studies in the United Kingdom;
  - (c) a condition about the person’s residence;
  - (d) a condition requiring the person to report to the Secretary of State or such other person as may be specified; 45
  - (e) an electronic monitoring condition (see paragraph 4);

- (f) such other conditions as the person granting the immigration bail thinks fit.
- (2) Immigration bail may also be granted subject to a financial condition (see paragraph 5).
- (3) Sub-paragraph (4) applies if the First-tier Tribunal grants immigration bail to a person but – 5
- (a) does not grant it subject to a condition about the person’s residence, or
- (b) does not grant it subject to an electronic monitoring condition.
- (4) The Secretary of State may impose such a condition on the person. 10
- (5) If the First-tier Tribunal grants bail to a person subject to a condition about the person’s residence, the Secretary of State may impose a different condition of that kind on the person in place of the condition imposed by the Tribunal.
- (6) In this Schedule “bail condition”, in relation to a person on immigration bail, means a condition to which the person’s bail is subject. 15

*Exercise of power to grant immigration bail*

- 3 (1) The Secretary of State or the First-tier Tribunal must have regard to the matters listed in sub-paragraph (2) in determining – 20
- (a) whether to grant immigration bail to a person, and
- (b) the conditions to which a person’s immigration bail is to be subject.
- (2) Those matters are – 25
- (a) the likelihood of the person failing to comply with a bail condition,
- (b) whether the person has been convicted of an offence (whether in or outside the United Kingdom or before or after the coming into force of this paragraph),
- (c) the likelihood of a person committing an offence while on immigration bail,
- (d) the likelihood of the person’s presence in the United Kingdom, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order, 30
- (e) whether the person’s detention is necessary in that person’s interests or for the protection of any other person, and
- (f) such other matters as the Secretary of State or the First-tier Tribunal thinks relevant. 35
- (3) A person who is being detained under paragraph 16(1) of Schedule 2 to the Immigration Act 1971 must not be granted immigration bail by the First-tier Tribunal until after the end of the period of 8 days beginning with the date of the person’s arrival in the United Kingdom.
- (4) A person must not be granted immigration bail by the First-tier Tribunal without the consent of the Secretary of State if – 40
- (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 beginning with the date of the decision on whether the person should be granted immigration bail. 45

- (5) If the Secretary of State or the First-tier Tribunal decides to grant, or to refuse to grant, immigration bail to a person, the Secretary of State or the Tribunal must give the person notice of the decision.
- (6) Where the First-tier Tribunal is required under sub-paragraph (5) to give a person notice of a decision, it must also give the Secretary of State notice of the decision. 5
- (7) Where the decision is to grant immigration bail, a notice under sub-paragraph (5) or (6) must state –
  - (a) when the grant of immigration bail commences, and
  - (b) the bail conditions. 10
- (8) The commencement of a grant of immigration bail may be specified to be conditional on arrangements specified in the notice being in place to ensure that the person is able to comply with the bail conditions.

*Electronic monitoring condition*

- 4 (1) In this Schedule an “electronic monitoring condition” means a condition requiring the person on whom it is imposed (“P”) to co-operate with such arrangements as the Secretary of State may specify for detecting and recording by electronic means one or more of the following – 15
  - (a) P’s location at specified times, during specified periods of time or while the arrangements are in place; 20
  - (b) P’s presence in a location at specified times, during specified periods of time or while the arrangements are in place;
  - (c) P’s absence from a location at specified times, during specified periods of time or while the arrangements are in place.
- (2) The arrangements may in particular – 25
  - (a) require P to wear a device;
  - (b) require P to make specified use of a device;
  - (c) require P to communicate in a specified manner and at specified times or during specified periods;
  - (d) involve the exercise of functions by persons other than the Secretary of State or the First-tier Tribunal. 30
- (3) If the arrangements require P to wear, or make specified use of, a device they must –
  - (a) prohibit P from causing or permitting damage to, or interference with the device, and 35
  - (b) prohibit P from taking or permitting action that would or might prevent the effective operation of the device.
- (4) In this paragraph “specified” means specified in the arrangements.
- (5) An electronic monitoring condition may not be imposed on a person unless the person is at least 18 years old. 40

*Financial condition*

- 5 (1) In this Schedule “a financial condition” means a condition requiring the payment of a sum of money by the person to whom immigration bail is granted (“P”) or another person, in a case where P fails to comply with another condition to which P’s immigration bail is subject. 45

- 
- (2) A financial condition may be imposed on P only if the person imposing the condition thinks that it would be appropriate to do so with a view to ensuring that P complies with the other bail conditions.
- (3) The financial condition must specify – 5
- (a) the sum of money required to be paid,
  - (b) when it is to be paid, and
  - (c) the form and manner in which it is to be paid.
- (4) A sum to be paid under a financial condition is to be paid to the person who granted the immigration bail, subject to sub-paragraph (5).
- (5) If the First-tier Tribunal has directed that the power in paragraph 6(1) (power to vary bail conditions) is to be exercisable by the Secretary of State in relation to P, the sum is to be paid to the Secretary of State. 10
- (6) No sum is required to be paid under a financial condition unless the person who is liable to make a payment under it has been given an opportunity to make representations to the person to whom it is to be paid. 15
- (7) In England and Wales a sum payable under a financial condition is recoverable as if it were payable under an order of the county court in England and Wales.
- (8) In Scotland a sum payable under a financial condition 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. 20
- (9) In Northern Ireland a sum payable under a financial condition is recoverable as if it were payable under an order of a county court in Northern Ireland.
- (10) Where action is taken under this paragraph for the recovery of a sum payable under a financial condition, the requirement to pay the sum is – 25
- (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. 30

*Power to vary bail conditions*

- 6 (1) Where person is on immigration bail – 35
- (a) any of the conditions to which it is subject may be amended or removed, or
  - (b) one or more new conditions of the kind mentioned in paragraph 2(1) or (2) may be imposed on the person.
- (2) The power in sub-paragraph (1) is exercisable by the person who granted the immigration bail, subject to sub-paragraphs (3) and (4). 40
- (3) The Secretary of State may exercise the power in sub-paragraph (1) in relation to a person to whom immigration bail was granted by the First-tier Tribunal if the Tribunal so directs.

- (4) If the First-tier Tribunal gives a direction under sub-paragraph (3), the Tribunal may not exercise the power in sub-paragraph (1) in relation to the person.
- (5) The requirement for a direction in sub-paragraph (3) does not apply to the exercise of the Secretary of State’s powers under paragraph 2(4) or (5) or sub-paragraph (8) or (10) of this paragraph. 5
- (6) If the Secretary of State or the First-tier Tribunal decides to exercise, or to refuse to exercise, the power in sub-paragraph (1), the Secretary of State or the Tribunal must give notice to the person who is on immigration bail.
- (7) Where the First-tier Tribunal is required under sub-paragraph (6) to give notice to a person, it must also give notice to the Secretary of State. 10
- (8) If the First-tier Tribunal exercises the power in sub-paragraph (1) in relation to a person so as to remove a condition about the person’s residence or an electronic monitoring condition, the Secretary of State may impose such a condition on the person. 15
- (9) Sub-paragraph (10) applies if the First-tier Tribunal exercises the power in sub-paragraph (1) in relation to a person so as to amend a condition about the person’s residence or impose such a condition on the person.
- (10) The Secretary of State may impose a different condition of that kind on the person in place of the condition amended or imposed by the Tribunal. 20

*Powers of Secretary of State to enable person to meet bail conditions*

- 7 (1) *Sub-paragraph (2) applies where a person is on immigration bail subject to a condition imposed by the Secretary of State requiring the person to reside at an address specified in the condition and –*
  - (a) *the address is not one proposed by the person on immigration bail, or* 25
  - (b) *the person would not be able support himself or herself at the address unless the power in sub-paragraph (2) were exercised.*
- (2) *The Secretary of State may provide, or arrange for the provision of, facilities for the accommodation of that person at that address.*
- (3) *But the power in sub-paragraph (2) applies only to the extent that the Secretary of State thinks that there are exceptional circumstances which justify the exercise of the power.* 30
- (4) *The Secretary of State may make a payment to a person on immigration bail in respect of travelling expenses which the person has incurred or will incur for the purpose of complying with a bail condition.* 35
- (5) *But the power in sub-paragraph (4) applies only to the extent that the Secretary of State thinks that there are exceptional circumstances which justify the making of the payment.*

*Arrest for breach of immigration bail*

- 8 (1) An immigration officer or a constable may arrest without warrant a person on immigration bail if the immigration officer or constable –
  - (a) has reasonable grounds for believing that the person is likely to fail to comply with a bail condition, or

- 
- (b) has reasonable grounds for suspecting that the person is failing, or has failed, to comply with a bail condition.
- (2) Sub-paragraph (3) applies if an appropriate judicial officer is satisfied that there are reasonable grounds for believing that a person liable to be arrested under this paragraph is to be found any premises. 5
- (3) The appropriate judicial officer may issue a warrant authorising any immigration officer or constable to enter, by reasonable force if necessary, the premises named in the warrant for the purposes of searching for and arresting that person.
- (4) Sub-paragraph (5) applies where— 10
- (a) a warrant under this paragraph is issued for the purposes of the arrest of person under this paragraph, and
- (b) an immigration officer or a constable enters premises in reliance on the warrant and detains a person on the premises.
- (5) A detainee custody officer may enter the premises, if need be by reasonable force, for the purpose of carrying out a search. 15
- (6) In sub-paragraph (5)—
- “detainee custody officer” means a person in respect of whom a certificate of authorisation is in force under section 154 of the Immigration and Asylum Act 1999 (detained persons: escort and custody), and 20
- “search” means a search under paragraph 2(1)(a) of Schedule 13 to that Act (escort arrangements: power to search detained person).
- (7) Paragraphs 25A to 25C of Schedule 2 to the Immigration Act 1971 (entry and search of persons and premises) apply in relation to a person arrested under this paragraph as they apply in relation to a person arrested under that Schedule. 25
- (8) A person arrested under this paragraph—
- (a) must, as soon as is practicable after the person’s arrest, be brought before the relevant authority, and 30
- (b) may be detained under the authority of the Secretary of State in the meantime.
- (9) The relevant authority is—
- (a) the Secretary of State, if the Secretary of State granted immigration bail to the arrested person or the First-tier Tribunal has directed that the power in paragraph 6(1) is exercisable by the Secretary of State in relation to that person, or 35
- (b) otherwise, the First-tier Tribunal.
- (10) Where an arrested person is brought before the relevant authority, the relevant authority must decide whether the arrested person has broken or is likely to break any of the bail conditions. 40
- (11) If the relevant authority decides the arrested person has broken or is likely to break any of the bail conditions, the relevant authority must—
- (a) direct that the person is to be detained under the provision mentioned in paragraph 1(1) under which the person is liable to be detained, or 45
- (b) grant the person bail subject to the same or different conditions.

- (12) If the relevant authority decides the person has not broken and is not likely to break any of the bail conditions, the relevant authority must grant the person bail subject to same conditions (but this does not prevent the subsequent exercise of the powers in paragraph 6).
- (13) In this paragraph – 5  
“appropriate judicial officer” means –  
(a) in relation to England and Wales, a justice of the peace;  
(b) in relation to Scotland, the sheriff or a justice of the peace;  
(c) in relation to Northern Ireland, a lay magistrate;  
“premises” – 10  
(a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984;  
(b) in relation to Scotland, has the same meaning as in section 412 of the Proceeds of Crime Act 2002;  
(c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12)). 15

*Tribunal Procedure Rules*

- 9 (1) Tribunal Procedure Rules must make provision with respect to applications to the First-tier Tribunal under this Schedule and matters arising out of such applications. 20
- (2) Tribunal Procedure Rules must secure that, where the First-tier Tribunal has decided not to grant a person immigration bail, the Tribunal must dismiss without a hearing any further application for the person to be granted immigration bail which – 25  
(a) is an application to which sub-paragraph (3) applies, but  
(b) is not an application to which sub-paragraph (4) applies.
- (3) This sub-paragraph applies to an application made during the period of 28 days beginning with the date of the decision mentioned in sub-paragraph (2). 30
- (4) This sub-paragraph applies to an application on which the person demonstrates there has been a material change in the person’s circumstances.

*Transitional provision*

- 10 (1) Regulations under section 52(1) may, in particular, provide for a person to whom sub-paragraph (2) applies to be treated, for such purposes as may be specified, as having been granted immigration bail in such circumstances and subject to such conditions as may be specified. 35
- (2) This sub-paragraph applies to a person who, at the specified time, was not in detention on the basis that – 40  
(a) the person had been temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the Immigration Act 1971,  
(b) the person had been released from detention under that paragraph,  
(c) the person was liable to be detained under paragraph 2(1) of Schedule 3 to the Immigration Act 1971 but, by virtue of a direction of the Secretary of State or the court, was not so detained, 45

- (d) the person was liable to be detained under paragraph 2(2) or (3) of the Schedule but was not so detained,
- (e) the person had been released from detention under section 36(3) of the UK Borders Act 2007, or
- (f) the person had been released on bail from detention under any provision of the Immigration Acts. 5

## PART 2

### AMENDMENTS TO OTHER ACTS

#### *Immigration Act 1971 (c. 77)*

- 11 The Immigration Act 1971 is amended as follows. 10
- 12 (1) Section 24 (illegal entry and other similar offences) is amended as follows.
- (2) In subsection (1) –
- (a) omit paragraph (e), and
  - (b) at the end of paragraph (g) insert “;
    - (h) if the person is on immigration bail within the meaning of Schedule 5 to the Immigration Act 2016 and, without reasonable excuse, the person breaches a bail condition within the meaning of that Schedule.” 15
- (3) In subsection (3) for “28” substitute “28(1)”.
- (4) After that subsection insert – 20
- “(3A) The extended time limit for prosecutions which is provided for by section 28(1A) below shall apply to offences under subsection (1)(h) above.”
- 13 (1) Section 28 (proceedings for offences) is amended as follows.
- (2) In subsection (1) for “24” substitute “24(3)”. 25
- (3) After that subsection insert –
- “(1A) Where the offence is one to which, under section 24(3A), an extended time limit for prosecutions is to apply, then –
- (a) an information relating to the offence may in England and Wales be tried by a magistrates’ court if it is laid – 30
    - (i) within the period of six months beginning with the date of the commission of the offence, or
    - (ii) within the period of three months beginning with the date when the person is first arrested for the offence or under paragraph 8 of Schedule 5 (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i), 35
  - (b) summary proceedings for the offence may in Scotland be commenced – 40
    - (i) within the period of six months beginning with the date of the commission of the offence, or
    - (ii) within the period of three months beginning with the date when the person is first arrested for the offence

- or under paragraph 8 of Schedule 5 (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i), and
- (c) a complaint charging the commission of an offence under this paragraph may in Northern Ireland be heard and determined by a magistrates' court if it is made –
- (i) within the period of six months beginning with the date of the commission of the offence, or
  - (ii) within the period of three months beginning with the date when the person is first arrested for the offence or under paragraph 8 of Schedule 5 (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i)."
- (4) In subsection (2) for “subsection (1)(b)” substitute “subsections (1)(b) and (1A)(b)”.
- 14 In section 28B(5) (meaning of “relevant offence”) for “(e) or (f)” substitute “(f) or (h)”.
- 15 In section 28D(4) (meaning of “relevant offence”) for “(e) or (f)” substitute “(f) or (h)”.
- 16 In Schedule 2 (administrative provisions as to control on entry etc) omit paragraphs 21 to 25 and 29 to 34.
- 17 (1) Schedule 3 (supplementary provisions as to deportation) is amended as follows.
- (2) In paragraph 2 –
- (a) in sub-paragraph (1)
    - (i) omit the words from “unless” in the first place it appears to “below”, and
    - (ii) for the words from “unless” in the second place it appears to the end of the sub-paragraph substitute “unless –
      - (a) the court by which the recommendation is made grants bail to the person, or
      - (b) the person is released on immigration bail under Schedule 5 to the Immigration Act 2016.”,
  - (b) in sub-paragraph (1A) for the words from “direct” to the end of the sub-paragraph substitute “release the person on bail without setting aside the recommendation”,
  - (c) in sub-paragraph (3) for the words from “unless” to the end of the sub-paragraph substitute “unless he is released on immigration bail under Schedule 5 to the Immigration Act 2016.”, and
  - (d) for sub-paragraphs (4A) to (6) substitute –
    - “(5) The provisions of Schedule 5 to the Immigration Act 2016 that apply in relation to the grant of immigration bail by the First-tier Tribunal apply in relation to the grant of bail by the court under sub-paragraph (1) or (1A).
    - (6) If the court grants bail to a person under sub-paragraph (1) or (1A), Schedule 5 to the Immigration Act 2016 applies in relation to that person as if the person had been granted

immigration bail by the First-tier Tribunal under that Schedule.”

(3) Omit paragraphs 3 to 10.

*Special Immigration Appeals Commission Act 1997 (c. 68)*

- |    |   |    |
|----|---|----|
| 18 | The Special Immigration Appeals Commission Act 1997 is amended as follows.  | 5  |
| 19 | In section 3(1) (jurisdiction: bail) for “Schedule 2 to the Immigration Act 1971” substitute “Schedule 5 to the Immigration Act 2016”.                            |    |
| 20 | (1) Section 5 (procedure in relation to jurisdiction under sections 2 and 3) is amended as follows.   | 10 |
|    | (2) In subsection (4)(a) for “Part II of Schedule 2 to the Immigration Act 1971” substitute “Schedule 5 to the Immigration Act 2016”.                             |    |
|    | (3) In subsection (5) for “paragraphs 22 to 24 of Schedule 2 to the Immigration Act 1971” substitute “Schedule 5 to the Immigration Act 2016”.                    |    |
|    | (4) In subsection (5A) –  | 15 |
|    | (a) for “bail under paragraph 22 or 29 of Schedule 2 to the Immigration Act 1971” substitute “immigration bail under Schedule 5 to the Immigration Act 2016”, and |    |
|    | (b) for “bail” in the second place it appears substitute “immigration bail”.  | 20 |
| 21 | For Schedule 3 substitute –   |    |

“SCHEDULE 3

Section 3

BAIL: MODIFICATIONS OF SCHEDULE 5 TO THE IMMIGRATION ACT 2016

- |   |   |    |
|---|---|----|
| 1 | Paragraph 1(3) (power to grant bail) has effect as if –   |    |
|   | (a) for “The First-tier Tribunal” there were substituted “The Special Immigration Appeals Commission”, and  | 25 |
|   | (b) for “the Tribunal” there were substituted “the Commission”.   |    |
| 2 | Paragraph 2 (conditions of immigration bail) has effect as if –   |    |
|   | (a) in sub-paragraphs (2)(a), (3) and (5) for “the First-tier Tribunal” there were substituted “the Special Immigration Appeals Commission”, and                | 30 |
|   | (b) in sub-paragraph (5) for “the Tribunal” there were substituted “the Commission”.  |    |
| 3 | Paragraph 3 (exercise of power to grant immigration bail) has effect as if –  | 35 |
|   | (a) in sub-paragraphs (1), (2)(f), (3), (4), (5) and (6) for “the First-tier Tribunal” there were substituted “the Special Immigration Appeals Commission”, and |    |
|   | (b) in sub-paragraph (5) for “the Tribunal” there were substituted “the Commission”.  | 40 |
| 4 | Paragraph 6 (power to vary bail conditions) has effect as if –  |    |

- (a) in sub-paragraphs (3), (5), (6), (7) and (8) for “the First-tier Tribunal” there were substituted “the Special Immigration Appeals Commission”, and
  - (b) in sub-paragraphs (3), (5) and (9) for “the Tribunal” there were substituted “the Commission”. 5
- 5 Paragraph 8(9) (meaning of “relevant authority”) has effect as if for “the First-tier Tribunal” in both places there were substituted “the Special Immigration Appeals Commission”.

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

- 22 The Nationality, Immigration and Asylum Act 2002 is amended as follows. 10
- 23 (1) Section 62 (detention by the Secretary of State) is amended as follows.
- (2) In subsection (3) omit paragraph (b) (but not the “and” at the end of it).
  - (3) Omit subsection (4).
- 24 Omit sections 68 (bail) and 69 (reporting restriction: travel expenses).

*Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19)* 15

- 25 In the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 omit section 36 (electronic monitoring).

*Immigration, Asylum and Nationality Act 2006 (c. 13)*

- 26 In section 24 of the Immigration, Asylum and Nationality Act 2006 (temporary admission) – 20
- (a) for “paragraph 21(1) of Schedule 2 to the Immigration Act 1971 (c 77) (temporary admission or release from detention)” substitute “a grant of immigration bail to the person under Schedule 5 to the Immigration Act 2016”, and
  - (b) in paragraph (b) for “paragraph 21(2)” substitute “under that Schedule as a condition of that person’s immigration bail”. 25

*UK Borders Act 2007 (c. 30)*

- 27 (1) Section 36 of the UK Borders Act 2007 (detention) is amended as follows.
- (2) In subsection (2) – 30
- (a) after “unless” insert “– (a)”, and
  - (b) at the end of paragraph (a) insert “, or  
(b) the person is granted immigration bail under Schedule 5 to the Immigration Act 2016.”
- (3) In subsection (3) for “direct release” substitute “release a person on bail”.
- (4) After subsection (3) insert – 35
- “(3A) The provisions of Schedule 5 to the Immigration Act 2016 that apply in relation to the grant of immigration bail by the First-tier Tribunal apply in relation to the grant of bail by the court under subsection (3).

- (3B) If the court grants bail to a person under subsection (3), Schedule 5 to the Immigration Act 2016 applies in relation to that person as if the person had been granted immigration bail by the First-tier Tribunal under that Schedule.”
- (5) In subsection (4) omit “(including provisions about bail)”. 5
- (6) Omit subsection (5).

## SCHEDULE 6

Section 34

### SUPPORT FOR CERTAIN CATEGORIES OF MIGRANT

#### PART 1

#### AMENDMENTS OF THE IMMIGRATION ACTS 10

##### *Abolition of power to support certain categories of migrant*

- 1 Section 4 of the Immigration and Asylum Act 1999 (provision of accommodation for failed asylum-seekers, etc) is repealed.
- 2 In consequence of the repeal made by paragraph 1 –
- (a) in section 26A of the Immigration Act 1971, omit subsection (1)(b)(ii); 15
- (b) in the following provisions, omit “section 4 or” –
- (i) section 3A(7A) of the Protection from Eviction Act 1977;
- (ii) paragraph 3A(1) of Schedule 2 to the Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I. 15));
- (iii) section 23A(5A) of the Rent (Scotland) Act 1984; 20
- (iv) paragraph 4A(1) of Schedule 1 to the Housing Act 1985;
- (v) paragraph 11B of Schedule 4 to the Housing (Scotland) Act 1988;
- (vi) paragraph 12A(1) of Schedule 1 to the Housing Act 1988;
- (c) in section 99 of the Immigration and Asylum Act 1999, in subsections (1) and (4), omit “4,”; 25
- (d) in section 103 of that Act –
- (i) omit subsection (2A), and
- (ii) in subsections (6) and (7), for “section 4 or 95” substitute “section 95”; 30
- (e) in section 118(1)(b) of that Act, omit “4,”;
- (f) in section 166(5) of that Act, omit paragraph (za);
- (g) in the Nationality, Immigration and Asylum Act 2002 –
- (i) in section 23, omit subsection (5),
- (ii) in section 26, in subsection (3), omit “4,” 35
- (iii) omit section 49,
- (iv) in section 51, in subsection (2), omit paragraph (b), and
- (v) in section 55, in subsection (2)(a), omit “4,”;
- (h) in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, omit section 10; 40

- (i) in the Immigration, Asylum and Nationality Act 2006, omit section 43(1)(b), (2) and (7);
- (j) in the UK Borders Act 2007 –
  - (i) in section 17, in subsection (1)(a), omit “(and section 4)”, and
  - (ii) in section 40, in subsection (1), omit paragraph (e);
- (k) in Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, in paragraph 31(1)(a), omit “4 or”.

*Power to support people making further submissions in relation to protection claims*

- 3 (1) Section 94 of the Immigration and Asylum Act 1999 (interpretation of Part 6) is amended as follows. 10
- (2) In subsection (1) –
- (a) for the definition of “asylum-seeker” substitute –
    - ““asylum-seeker” means a person falling within subsection (2A) or (2B) (but see also subsection (3C));”;
  - (b) omit the definition of “claim for asylum”;
  - (c) before the definition of “housing accommodation” insert –
    - ““further qualifying submissions” has the meaning given by subsection (2C);”;
  - (d) after the definition of “Northern Ireland authority” insert –
    - ““protection claim” has the meaning given by section 82(2) of the Nationality, Immigration and Asylum Act 2002;”.
- (3) After subsection (2) insert –
- “(2A) A person is an asylum-seeker for the purposes of this Part if – 25
- (a) the person is at least 18 years old,
  - (b) the person has made a protection claim, and
  - (c) the person’s claim –
    - (i) has been recorded by the Secretary of State, but
    - (ii) has not been determined.
- (2B) A person is also an asylum-seeker for the purposes of this Part if –
- (a) the person is at least 18 years old,
  - (b) the person has made further qualifying submissions (see subsection (2C)), and
  - (c) the person’s submissions –
    - (i) have been recorded by the Secretary of State, but
    - (ii) have not been determined before the end of such period as may be prescribed.
- (2C) A person makes “further qualifying submissions” if –
- (a) the person makes submissions to the Secretary of State that the person’s removal from the United Kingdom would breach any of the obligations mentioned in section 82(2)(a)(i) or (ii) of the Nationality, Immigration and Asylum Act 2002 (protection claims), and
  - (b) the submissions fall to be considered by the Secretary of State under paragraph 353 of the immigration rules.” 40 45

- 
- (4) In subsection (3), for “claim for asylum” substitute “protection claim”.
- (5) After subsection (3) insert –
- “(3A) For the purposes of this Part, further qualifying submissions made by a person are determined –
- (a) at the end of a prescribed period beginning with the relevant day (see subsection (3B)), or 5
- (b) in a case where no period is prescribed for the purposes of paragraph (a), at the end of the relevant day.
- (3B) In subsection (3A) “the relevant day” means the day on which the Secretary of State notifies the person that the submissions made by the person are to be – 10
- (a) accepted,
- (b) rejected without being treated as a fresh protection claim, or
- (c) treated as a fresh protection claim.
- (3C) If – 15
- (a) further qualifying submissions made by a person are rejected without being treated as a fresh protection claim, and
- (b) the person is granted permission to apply for judicial review of that rejection,
- the person is to be treated as an asylum-seeker for the purposes of this Part during the review period (see subsection (3D)). 20
- (3D) In subsection (3C) “the review period” means the period –
- (a) beginning with the day on which permission to apply for judicial review is granted, and
- (b) ending with – 25
- (i) a prescribed period beginning with the day on which the judicial review is disposed of, or
- (ii) in a case where no period is prescribed for the purposes of sub-paragraph (i), that day.”
- (6) In subsection (8), after “subsection (3)” insert “or (3B)”. 30
- 4 In consequence of the repeal made by paragraph 3(2)(b) –
- (a) in section 96 of the Immigration and Asylum Act 1999 (ways in which support may be provided), in subsection (1)(c), for “claim for asylum” substitute “protection claim”;
- (b) in section 141 of that Act (fingerprinting) – 35
- (i) in subsections (7)(e), (8)(e) and (9)(e), for “claim for asylum” substitute “protection claim”, and
- (ii) in subsection (15), for ““Claim for asylum”” substitute ““Protection claim””;
- (c) in section 167 of that Act (interpretation), in subsection (1), in the definition of “claim for asylum”, for “Parts V and VI” substitute “Part 5”;
- (d) in Schedule 8 to that Act (provision of support: regulations), in paragraph 9(2)(b), for “claim for asylum” substitute “protection claim”;
- 45

- (e) in section 135 of the Criminal Justice and Immigration Act 2008 (support: supplemental), in subsection (5), for “claim for asylum” substitute “protection claim”.

*Power to support failed asylum-seekers*

- 5 Part 6 of the Immigration and Asylum Act 1999 (support for asylum-seekers) is amended as follows. 5
- 6 The heading of the Part becomes “SUPPORT FOR ASYLUM-SEEKERS, ETC”.
- 7 (1) Section 94 (interpretation of Part 6) is amended as follows.
- (2) In subsection (1) –
- (a) in the definition of “dependant”, after “asylum-seeker” insert “, a failed asylum-seeker”; 10
- (b) after the definition of “the Executive” insert –  
““failed asylum-seeker” has the meaning given by subsection (2D);”;
- (c) for the definition of “supported person” substitute – 15  
““supported person” means –
- (a) in relation to support under section 95, an asylum-seeker, or a dependant of an asylum-seeker, who has applied for support and for whom support is provided under that section, and 20
- (b) in relation to support under section 95A, a failed asylum-seeker, or a dependant of a failed asylum-seeker, who has applied for support and for whom support is provided under that section.” 25
- (3) In subsection (2), after “section 95” insert “or 95A”.
- (4) After subsection (2C) (inserted by paragraph 3(3) above) insert –
- “(2D) A person is a failed asylum-seeker for the purposes of this Part if – 30
- (a) the person is at least 18 years old,
- (b) the person –
- (i) was an asylum-seeker, or
- (ii) would have been an asylum-seeker at any time if the person had been at least 18 years old at that time,
- (c) the person’s protection claim has been rejected, and 35
- (d) the person is not an asylum-seeker.”
- (5) Omit subsections (5) and (6).
- 8 In section 95 (persons for whom support may be provided), the heading becomes “**Support for asylum-seekers, etc**”.
- 9 After section 95 insert – 40
- “95A Support for failed asylum-seekers, etc who are unable to leave UK**
- (1) *The Secretary of State may provide, or arrange for the provision of, support for a person, for such period or periods as may be prescribed, if –*

- 
- (a) *the person is a failed asylum-seeker, or a dependant of a failed asylum-seeker,*
- (b) *an application for support under this section is made in respect of the person which meets such requirements as may be prescribed,*
- (c) *it appears to the Secretary of State that the person is destitute, or likely to become destitute within such period as may be prescribed, and* 5
- (d) *the person faces a genuine obstacle to leaving the United Kingdom.*
- (2) Subsections (3) to (8) of section 95 (meaning of “destitute”) apply for the purposes of this section as they apply for the purposes of that section. 10
- (3) Regulations made by the Secretary of State may make provision for determining what is, or is not, to be regarded as a genuine obstacle to leaving the United Kingdom for the purposes of this section.
- (4) The Secretary of State may make regulations prescribing other criteria to be used in determining – 15
- (a) whether or not to provide support, or arrange for the provision of support, for a person under this section;
- (b) whether or not to continue to provide support, or arrange for the provision of support, for a person under this section. 20
- (5) Regulations under subsection (4) may, in particular –
- (a) provide for the provision of support (or the continuation of the provision of support) to be subject to conditions;
- (b) provide for the provision of support (or the continuation of the provision of support) to be a matter for the Secretary of State’s discretion to a prescribed extent or in cases of a prescribed description. 25
- (6) A condition imposed by regulations under subsection (5)(a) may, in particular, relate to any of the following – 30
- (a) any matter relating to the use of the support provided;
- (b) compliance with a restriction imposed under paragraph 21 of Schedule 2 to the 1971 Act (temporary admission or release from detention) or paragraph 2 or 5 of Schedule 3 to that Act (restriction pending deportation);
- (c) the person’s performance of, or participation in, community activities in accordance with arrangements made by the Secretary of State. 35
- (7) A copy of any conditions imposed by regulations under subsection (5)(a) must be given to the supported person.
- (8) For the purposes of subsection (6)(c) – 40
- (a) “community activities” means activities that appear to the Secretary of State to be beneficial to the public or a section of the public, and
- (b) the Secretary of State may, in particular – 45
- (i) appoint one person to supervise or manage the performance of, or participation in, activities by another person;

- (ii) enter into a contract (with a local authority or any other person) for the provision of services by way of making arrangements for community activities in accordance with this section;
    - (iii) *pay, or arrange for the payment of, allowances to a person performing or participating in community activities in accordance with arrangements under this section.* 5
  - (9) Regulations by virtue of subsection (6)(c) may, in particular, provide for a condition requiring the performance of, or participation in, community activities to apply to a person only if – 10
    - (a) accommodation is to be, or is being, provided for the person under this section, and
    - (b) the Secretary of State has made arrangements for community activities in an area that includes the place where the accommodation is to be, or is being, provided. 15
  - (10) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section.
  - (11) The powers conferred by Schedule 8 (supplementary regulation-making powers) are exercisable with respect to the powers conferred by this section as they are exercisable with respect to the powers conferred by section 95, but with the modification in subsection (12). 20
  - (12) Paragraph 9 of Schedule 8 (notice to quit) has effect with respect to the powers conferred by this section as if sub-paragraph (2)(b) were omitted.” 25
- 10 (1) Section 96 (ways in which support may be provided) is amended as follows.
  - (2) In subsection (1) –
    - (a) after “section 95” insert “or 95A”;
    - (b) in paragraph (c), for “the asylum-seeker” substitute “an asylum-seeker”; 30
    - (c) in paragraph (d) –
      - (i) for “the asylum-seeker” substitute “an asylum-seeker”, and
      - (ii) after “dependants” insert “, or a failed asylum-seeker and his dependants,”;
    - (d) in paragraph (e) – 35
      - (i) for “the asylum-seeker” substitute “an asylum-seeker”, and
      - (ii) after “dependants” insert “, or a failed asylum-seeker and his dependants,”.
  - (3) After subsection (1) insert –
    - “(1A) Support under section 95A may, in particular, be provided in the form of vouchers which may be exchanged for goods or services (as well as in the form of cash).” 40
  - (4) In subsection (2), after “section 95” insert “or 95A”.
- 11 (1) Section 97 (supplemental) is amended as follows.
  - (2) In subsection (1) – 45
    - (a) after “section 95” insert “or 95A”;

- (b) after “regard to” insert “the following”;
- (c) in paragraph (a), at the beginning insert “in the case of the provision of accommodation under section 95,”.
- (3) In subsections (4), (5) and (7), after “section 95” insert “or 95A”.
- 12 In section 98, the heading becomes “**Temporary support for asylum-seekers, etc**”. 5
- 13 After section 98 insert –
- “98A Temporary support for failed asylum-seekers, etc**
- (1) *The Secretary of State may provide, or arrange for the provision of, support for persons within subsection (2) who it appears to the Secretary of State –* 10
- (a) *may be destitute, and*
- (b) *may face a genuine obstacle to leaving the United Kingdom.*
- (2) The persons referred to in subsection (1) are –
- (a) failed asylum-seekers, and
- (b) dependants of failed asylum-seekers. 15
- (3) Support may be provided under this section only until the Secretary of State is able to determine whether support may be provided under section 95A.
- (4) Subsections (3) to (12) of section 95A apply for the purposes of this section as they apply for the purposes of that section.” 20
- 14 (1) Section 99 (provision of support by local authorities) is amended as follows.
- (2) In subsection (1), for “or 98” substitute “95A, 98 or 98A”.
- (3) In subsection (3) –
- (a) after “section 95” insert “or 95A”;
- (b) for “section 96(1) and (2)” substitute “section 96(1) to (2)”. 25
- (4) In subsection (4), for “or 98” substitute “95A, 98 or 98A”.
- 15 In section 100 (local authority and other assistance for Secretary of State), in subsection (1), after “section 95” insert “or 95A”.
- 16 In section 101 (reception zones), in subsection (3), after “section 95” (in both places where it occurs) insert “or 95A”. 30
- 17 In section 112 (recovery of expenditure on support: misrepresentation etc), in subsections (1)(b) and (3), for “section 95 or 98” substitute “section 95, 95A, 98 or 98A”.
- 18 In section 113 (recovery of expenditure on support from sponsor), in subsections (1)(b), (4) and (5)(a), after “section 95” insert “or 95A”. 35
- 19 (1) Section 114 (overpayments) is amended as follows.
- (2) In subsection (1), for “section 95 or 98” substitute “section 95, 95A, 98 or 98A”.
- (3) In subsection (4), for “section 95” substitute “section 95, 95A or 98A”.
- 20 In section 118 (housing authority accommodation), in subsection (1)(b), for “or 98” substitute “95A, 98 or 98A”. 40

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- 21 (1) Section 122 (support for children) is amended as follows.
- (2) In subsection (1), after “section 95” insert “or 95A”.
- (3) In subsection (2), after “section 95” insert “or (as the case may be) 95A”.
- (4) In subsections (3) and (4), after “section 95” insert “or 95A”.
- (5) In subsection (5) – 5
- (a) in paragraph (b)(i), after “section 95” insert “or 95A”, and
- (b) in paragraph (b)(ii), after “section 95” insert “or (as the case may be) 95A”.
- 22 (1) Section 125 (entry of premises) is amended as follows.
- (2) In subsection (1), for “section 95 or 98” substitute “section 95, 95A, 98 or 98A”. 10
- (3) In subsection (2) –
- (a) in paragraph (b), at the beginning insert “in the case of accommodation provided under section 95 or 98,”;
- (b) after that paragraph insert – 15
- “(ba) in the case of accommodation provided under section 95A or 98A, the accommodation is being used for any purpose other than the accommodation of the failed asylum-seeker or any dependant of his,”.
- 23 In section 127 (requirement to supply information about redirection of post), in subsection (1)(c), after “asylum-seekers” insert “or failed asylum-seekers”. 20
- 24 In section 26A of the Immigration Act 1971 (registration card), in subsection (1)(b), after sub-paragraph (i) insert –
- “(ia) a claim for support under section 95A of the Immigration and Asylum Act 1999 (whether or not made by that person).” 25
- 25 (1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.
- (2) In section 18 (definition of asylum-seeker for purposes of Part 2), omit subsection (2).
- (3) In section 26 (withdrawal of support), in subsection (3) – 30
- (a) for “95 or 98” substitute “95, 95A, 98 or 98A”;
- (b) omit “(asylum-seeker)”.
- (4) In section 35 –
- (a) in subsection (2), for “section 95 or 98” substitute “section 95, 95A, 98 or 98A”;
- (b) in subsection (3), after “section 95” insert “or 95A”. 35
- (5) In section 43 –
- (a) in subsection (1), for “asylum-seeker” substitute “asylum-seekers and failed asylum-seekers, etc”;
- (b) the heading of that section becomes “**Form of support under Part 6 of the Immigration and Asylum Act 1999**”. 40
- (6) In section 51 (choice of form of support), in subsection (2), omit the “and”

- after paragraph (b) and after paragraph (c) insert “, and  
 (d) sections 95A and 98A of that Act (support for destitute failed asylum-seekers).”
- (7) In section 55 (late claim for asylum: refusal of support), in subsection (2), after paragraph (a) insert – 5  
 “(aa) sections 95A and 98A of that Act (support for failed asylum-seeker, &c).”
- (8) In Schedule 3 (withholding and withdrawal of support) –  
 (a) omit paragraph 7A;  
 (b) in paragraph 14(1) and (2), for “, 7 or 7A” substitute “or 7”. 10
- 26 In section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (failed asylum-seekers: withdrawal of support) –  
 (a) omit subsections (1) and (4);  
 (b) in subsection (3)(a) and (b), omit “other than paragraph 7A”.
- 27 (1) The Immigration, Asylum and Nationality Act 2006 is amended as follows. 15  
 (2) In section 43 (accommodation) –  
 (a) in subsection (5), for the words from “section 4” to the end substitute “section 95A of the Immigration and Asylum Act 1999 (support for failed asylum-seekers, etc)”;  
 (b) in subsection (6), for “subsection (4)” substitute “subsection (5)”. 20
- (3) Omit section 44 (power to repeal paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002).
- 28 In section 40 of the UK Borders Act 2007 (supply of Revenue and Customs information), in subsection (1)(f), for “asylum-seekers and their dependants” substitute “persons”. 25

*Accommodation centres: definition of “asylum-seeker” etc*

- 29 (1) Section 18 of the Nationality, Immigration and Asylum Act 2002 (definition of asylum-seeker for purposes of Part 2) is amended as follows.  
 (2) For subsection (1) substitute – 30  
 “(1) For the purposes of this Part a person is an “asylum-seeker” if –  
 (a) the person is at least 18 years old,  
 (b) the person has made a protection claim, and  
 (c) the person’s claim –  
 (i) has been recorded by the Secretary of State, but  
 (ii) has not been determined. 35
- (1A) A person is also an “asylum-seeker” for the purposes of this Part if the person is an asylum-seeker for the purposes of Part 6 of the Immigration and Asylum Act 1999 by virtue of section 94(2B) or (3C) of that Act.”
- (3) For subsection (3) substitute – 40  
 “(3) “Protection claim” has the meaning given by section 82(2).”

- 30 (1) In consequence of the amendment made by paragraph 29(3), section 26A of the Immigration Act 1971 (registration card) is amended as follows.
- (2) In subsection (1)(b)(i), for “claim for asylum” substitute “protection claim”.
- (3) In subsection (2), for ““claim for asylum”” substitute ““protection claim””.
- 31 In consequence of the amendments made by paragraph 29, the Nationality, Immigration and Asylum Act 2002 is amended as follows. 5
- 32 In section 16 (establishment of accommodation centres), in subsection (3)(b), for “claims for asylum” substitute “protection claims”.
- 33 In section 21(3), for “claim for asylum” substitute “protection claim”.
- 34 In section 29 (facilities), in subsection (1)(c), for “claim for asylum” substitute “protection claim”. 10
- 35 (1) Section 55 (late claim for asylum: refusal of support) is amended as follows.
- (2) In subsections (1)(a), (3)(a) and (6)(a), for “claim for asylum” substitute “protection claim”.
- (3) In subsection (9), for ““claim for asylum”” substitute ““protection claim””. 15
- (4) The heading of the section becomes “**Late protection claim: refusal of support**”.
- 36 In section 70 of that Act (induction), in the definition of “asylum-seeker” in subsection (3), after “section 18(1)(a)” insert “of this Act and section 94(2B)(a) of the Immigration and Asylum Act 1999”. 20
- 37 (1) Section 71 (asylum-seeker: residence, etc restriction) is amended as follows.
- (2) In subsection (1)(a), for “claim for asylum” substitute “protection claim”.
- (3) In subsection (5), for ““claim for asylum”” substitute ““protection claim””.
- 38 In Schedule 3 (withholding and withdrawal of support), in paragraph 17(1), for the definition of “asylum-seeker” substitute – 25  
““asylum-seeker” has the meaning given by section 18,”.

*Repeal of uncommenced provisions*

- 39 The following provisions of the Nationality, Immigration and Asylum Act 2002, which contain amendments that have never been brought into force, are repealed – 30
- (a) section 44 (which amends sections 94 and 95 of the Immigration and Asylum Act 1999);
- (b) sections 45 and 46;
- (c) section 47 (which inserts a new section 122 into that Act);
- (d) section 53 (which inserts new sections 103, 103A and 103B into that Act). 35
- 40 In Schedule 15 to the National Health Service (Wales) Act 2006, in paragraph 2, for sub-paragraph (7) substitute –
- “(7) Subsections (3) and (5) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of sub-paragraph (6) as they apply for the 40

- purposes of that section, but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to a local social services authority.”
- 41 In Schedule 3 to the National Health Service (Consequential Provisions) Act 2006, omit paragraph 9. 5
- 42 In section 21 of the Care Act 2014, for subsections (2) and (3) substitute –
- “(2) For the purposes of subsection (1), section 95(3) and (5) to (8) of, and paragraph 2 of Schedule 8 to, the 1999 Act apply but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to the local authority in question.” 10
- 43 In section 46 of the Social Services and Well-being (Wales) Act 2014, for subsections (2) and (3) substitute –
- “(2) For the purposes of subsection (1), section 95(3) and (5) to (8) of, and paragraph 2 of Schedule 8 to, the 1999 Act apply but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to the local authority in question.” 15

## PART 2

### TRANSITIONAL AND SAVING PROVISION

- 44 (1) The repeals made by paragraphs 1 and 2 do not apply in relation to –
- (a) any person for whom accommodation is being provided under section 4 of the Immigration and Asylum Act 1999 immediately before the day on which those paragraphs come into force, 20
- (b) any person who has made an application before that day for accommodation to be provided under that section and whose application has not been determined or withdrawn before that day, 25  
and
- (c) any person who has appealed before that day against a decision not to provide accommodation for the person under that section, or a decision not to continue to provide accommodation for the person under that section, and whose appeal has not been determined or withdrawn before that day. 30
- This is subject to sub-paragraph (2).
- (2) The repeals made by paragraph 2(d) (which remove the right to appeal against a decision not to continue to provide accommodation for a person under section 4 of the Immigration and Asylum Act 1999) apply in relation to any decision not to continue to provide accommodation under that section for any person within sub-paragraph (1) which is made on or after the day on which paragraph 2(d) comes into force. 35
- 45 (1) The repeal made by paragraph 7(5) does not apply in relation to –
- (a) any person for whom support is being provided under section 95 of the Immigration and Asylum Act 1999 by virtue of section 94(5) of that Act immediately before the day on which paragraph 7(5) comes into force, 40
- (b) any person who has made an application before that day for support to be provided under section 95 of that Act and whose application has not been determined or withdrawn before that day, and 45

- (c) any person who has appealed before that day against a decision not to provide support for the person under that section, or a decision not to continue to provide support for the person under that section, and whose appeal has not been determined or withdrawn before that day. 5
- (2) Where by virtue of sub-paragraph (1) a person is provided with support under section 95 of the Immigration and Asylum Act 1999 by virtue of section 94(5) of that Act on or after the day on which paragraph 7(5) comes into force, section 103 of that Act (appeals) does not apply in relation to any decision not to continue to provide that support for that person which is made on or after that day. 10
- 46 Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) has effect as if –
- (a) after paragraph 7A there were inserted –
- “Sixth class of ineligible person: transitional cases”* 15
- 7B (1) Paragraph 1 applies to a person if –
- (a) the person is a transitionally-supported person (see sub-paragraph (3)),
- (b) the Secretary of State has certified that, in the Secretary of State’s opinion, the person has failed without reasonable excuse to take reasonable steps – 20
- (i) to leave the United Kingdom voluntarily, or
- (ii) to place himself in a position in which he is able to leave the United Kingdom voluntarily, 25
- (c) the person has received a copy of the Secretary of State’s certificate, and
- (d) the period of 14 days, beginning with the date on which the person receives the copy of the certificate, has elapsed. 30
- (2) Paragraph 1 also applies to a dependant of a person to whom that paragraph applies by virtue of sub-paragraph (1).
- (3) A person is a “transitionally-supported person” if – 35
- (a) accommodation is provided for the person by virtue of section 4 of the Immigration and Asylum Act 1999 as that section has effect by virtue of paragraph 44 of Schedule 6 to the Immigration Act 2016, or 40
- (b) support is provided for the person under section 95 of the Immigration and Asylum Act 1999 by virtue of section 94(5) of that Act, as that provision has effect by virtue of paragraph 45 of that Schedule.
- (4) For the purpose of sub-paragraph (1)(d), if the Secretary of State sends a copy of a certificate by first class post to a person’s last known address, the person is treated as 45

receiving the copy on the second day after the day on which it was posted.

- (5) The Secretary of State may by regulations vary the period specified in sub-paragraph (1)(d).”, and
- (b) in paragraph 14 (information), references to paragraph 7 included a reference to the paragraph 7B treated as inserted by this Schedule. 5

## SCHEDULE 7

Section 35

### PENALTIES RELATING TO AIRPORT CONTROL AREAS

- 1 This is the Part 1A of Schedule 2 to the Immigration Act 1971 referred to in section 35(2) – 10

#### “PART 1A

#### PENALTY FOR BREACH OF PARAGRAPH 26(2) OR (3)

##### *Penalty for breach of paragraph 26(2) or (3)*

- 28 (1) Sub-paragraph (2) applies where the Secretary of State has given written notice under paragraph 26(2) to the owner or agent of an aircraft – 15
- (a) designating a control area for the embarkation or disembarkation of passengers in an airport in the United Kingdom, and
- (b) specifying conditions or restrictions to be observed in the control area. 20
- (2) The Secretary of State may impose a penalty on the owner or agent if the owner or agent fails to take all reasonable steps to secure that –
- (a) passengers embarking on or disembarking from the aircraft at the airport do not embark or disembark at the airport outside the control area, or 25
- (b) the conditions or restrictions specified in the notice are observed.
- (3) Sub-paragraph (4) applies where the Secretary of State has given written notice under paragraph 26(3) to a person concerned with the management of an airport in the United Kingdom – 30
- (a) designating a control area in the airport, and
- (b) specifying conditions or restrictions to be observed in the control area. 35
- (4) The Secretary of State may impose a penalty on the person if the person fails to take all reasonable steps to secure that the conditions or restrictions specified in the notice are observed.
- (5) The Secretary of State may impose a separate penalty under sub-paragraph (2) or (4) in respect of each failure of the kind mentioned in that sub-paragraph. 40

- (6) The amount of a penalty imposed under sub-paragraph (2) or (4) may be such an amount as the Secretary of State considers appropriate; but the amount of each penalty must not exceed the prescribed maximum.

*Codes of practice* 5

- 28A (1) The Secretary of State must issue a code of practice to be followed by –
  - (a) agents and operators of aircraft to whom notices under paragraph 26(2) have been given, and
  - (b) persons concerned with the management of airports in the United Kingdom to whom notices under paragraph 26(3) have been given. 10
- (2) The Secretary of State must have regard to the code (in addition to any other matters the Secretary of State thinks relevant) –
  - (a) when deciding whether to impose a penalty under paragraph 28, and
  - (b) when considering a notice of objection under paragraph 28C. 15
- (3) The Secretary of State must issue a code of practice specifying matters to be considered in determining the amount of a penalty under paragraph 28. 20
- (4) The Secretary of State must have regard to the code (in addition to any other matters the Secretary of State thinks relevant) –
  - (a) when imposing a penalty under paragraph 28, and
  - (b) when considering a notice of objection under paragraph 28C. 25
- (5) Before issuing a code under this paragraph the Secretary of State must lay the code before Parliament.
- (6) A code under this paragraph comes into force in accordance with provision made by regulations made by the Secretary of State. 30
- (7) The Secretary of State may from time to time review a code under this paragraph and may revise and re-issue it following a review.
- (8) References in sub-paragraphs (5) and (6) to a code include a revised code.

*Penalty notices* 35

- 28B (1) If the Secretary of State decides that a person is liable to a penalty under paragraph 28, the Secretary of State must notify the person of that decision.
- (2) A notice under sub-paragraph (1) (a “penalty notice”) must –
  - (a) be in writing, 40
  - (b) state why the Secretary of State thinks the recipient is liable to the penalty,
  - (c) state the amount of the penalty,
  - (d) specify the date on which the penalty notice is given,

- (e) specify the 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,
- (f) specify how the penalty must be paid,
- (g) include an explanation of the steps that the person may take if the person objects to the penalty (including specifying the manner and form in which any notice of objection must be given to the Secretary of State), and 5
- (h) include an explanation of the steps the Secretary of State may take to recover any unpaid penalty. 10

### Objections

- 28C (1) The recipient of a penalty notice (“the recipient”) may object to the penalty notice by giving a notice of objection to the Secretary of State.
- (2) A notice of objection must – 15
- (a) be in writing,
  - (b) give the reasons for the objection,
  - (c) be given in the manner and form specified in the penalty notice, and
  - (d) be given before the end of the period of 28 days beginning with the date specified in the penalty notice as the date on which it is given. 20
- (3) Where the Secretary of State receives a notice of objection, the Secretary of State must consider it and – 25
- (a) cancel the penalty,
  - (b) reduce the penalty,
  - (c) increase the penalty, or
  - (d) determine not to alter the penalty.
- (4) After reaching a decision as to how to proceed under sub-paragraph (3), the Secretary of State must notify the recipient of the decision in writing. 30
- (5) A notification under sub-paragraph (4) must be given before the end of the period of 70 days beginning with the date specified in the penalty notice as the date on which it is given, or such longer period as the Secretary of State may agree with the recipient. 35
- (6) A notification under sub-paragraph (4), other than one notifying the recipient that the Secretary of State has decided to cancel the penalty, must –
- (a) state the amount of the penalty following the Secretary of State’s consideration of the notice of objection, 40
  - (b) state the Secretary of State’s reasons for the decision under sub-paragraph (3),
  - (c) specify the date, at least 28 days after the date on which the notification is given, before which the penalty must be paid, 45
  - (d) specify how the penalty must be paid,

- (e) include an explanation of the recipient’s rights of appeal, and
- (f) include an explanation of the steps the Secretary of State may take to recover any unpaid penalty.

*Appeals*

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28D (1) A person (“the appellant”) may appeal to the court against a decision to require the person to pay a penalty under paragraph 28.

(2) An appeal may be brought only if the appellant has given a notice of objection and the Secretary of State has –

10

- (a) reduced the penalty under paragraph 28C(3)(b),
- (b) increased the penalty under paragraph 28C(3)(c), or
- (c) determined not to alter the penalty under paragraph 28C(3)(d).

(3) An appeal must be brought within the period of 28 days beginning with the date on which the appellant is notified of the Secretary of State’s decision on the notice of objection under paragraph 28C(4).

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(4) On appeal, the court may –

- (a) allow the appeal and cancel the penalty,
- (b) allow the appeal and reduce the penalty, or
- (c) dismiss the appeal.

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(5) 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) any code of practice under paragraph 28A(1) which had effect at the time of the events to which the penalty relates,
- (b) any code of practice under paragraph 28A(3) which has effect at the time of the appeal, and
- (c) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware).

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(6) Sub-paragraph (5) has effect despite any provision of rules of court.

(7) In this paragraph “the court” means –

- (a) the county court, if the appeal relates to a penalty imposed under paragraph 28 in relation to an airport in England and Wales;
- (b) the sheriff, if the appeal relates to a penalty imposed under paragraph 28 in relation to an airport in Scotland;
- (c) a county court in Northern Ireland, if the appeal relates to a penalty imposed under paragraph 28 in relation to an airport in Northern Ireland.

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(8) But –

- (a) the county court in England and Wales, or a county court in Northern Ireland, may transfer proceedings under this paragraph to the High Court, and

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- (b) the sheriff may transfer proceedings under this paragraph to the Court of Session.

### *Enforcement*

- 28E (1) This section applies where a sum is payable to the Secretary of State as a penalty under paragraph 28. 5
- (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. 10
- (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 paragraph 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; 15
- (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. 20
- (6) *Money paid to the Secretary of State by way of a penalty under paragraph 28 must be paid into the Consolidated Fund.* 25

### *Service of documents*

- 28F (1) A document which is to be issued or served on a person outside the United Kingdom for the purposes of paragraph 28B or 28C or in the course of proceedings under paragraph 28E may be issued or served – 30
- (a) in person,
- (b) by post,
- (c) by facsimile transmission,
- (d) by e-mail, or 35
- (e) in any other prescribed manner.
- (2) The Secretary of State may by regulations provide that a document issued or served in a manner listed in sub-paragraph (1) in accordance with the regulations is to be taken to have been received at a time specified by or determined in accordance with the regulations. 40

### *Interpretation of this Part of this Schedule*

- 28G In this Part of this Schedule –  
“penalty notice” has the meaning given by paragraph 28B(2);

“prescribed” means prescribed by regulations made by the Secretary of State.

*Regulations under this Part of this Schedule*

- 28H (1) Regulations under this Part of this Schedule are to be made by statutory instrument. 5
- (2) A statutory instrument containing regulations under this Part of this Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under this Part of this Schedule – 10
- (a) may make different provision for different purposes;
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.”

SCHEDULE 8

Section 36

MARITIME ENFORCEMENT

- 1 The Immigration Act 1971 is amended as follows. 15
- 2 In section 25(1) (offence of assisting unlawful immigration to member State), in paragraphs (a) and (b) after “breach” insert “or attempted breach”.
- 3 In section 25A (helping an asylum-seeker to enter United Kingdom) in subsection (1)(a) – 20
- (a) after “arrival” insert “or attempted arrival”, and
  - (b) after “entry” insert “or attempted entry”.
- 4 In section 25B (assisting entry to United Kingdom in breach of deportation or exclusion order) – 25
- (a) in subsection (1), in paragraphs (a) and (b) after “breach” insert “or attempted breach”,
  - (b) for subsection (2) substitute – 30
- “(2) Subsection (3) applies where the Secretary of State has made an order excluding an individual from the United Kingdom on the grounds of public policy, public security or public health, other than a temporary exclusion order.”
- (c) in subsection (3) – 35
- (i) in paragraphs (a) and (b) after “remain” insert “, or attempt to arrive in, enter or remain,”;
  - (ii) at the end of paragraph (a) insert “and”;
  - (iii) omit the word “and” at the end of paragraph (b);
  - (iv) in paragraph (c) for the words from “personally” to the end substitute “made an order excluding the individual from the United Kingdom on the grounds of public policy, public security or public health”; and

- (d) after subsection (4) insert –
- “(5) In this section a “temporary exclusion order” means an order under section 2 of the Counter-Terrorism and Security Act 2015.”
- 5 In section 28 (proceedings) after subsection (2) insert – 5
- “(2A) Section 3 of the Territorial Waters Jurisdiction Act 1878 (consent of Secretary of State for certain prosecutions) does not apply to proceedings for an offence under section 25, 25A or 25B.”
- 6 In section 28A (arrest without warrant) in paragraphs (a) and (b) after “committed” insert “or attempted to commit”. 10
- 7 After Part 3 insert –

“PART 3A

MARITIME ENFORCEMENT

**28M Enforcement powers in relation to ships: England and Wales**

- (1) An immigration officer, an English and Welsh constable or an enforcement officer may exercise the powers set out in Part 1 of Schedule 4A (“Part 1 powers”) in relation to any of the following in England and Wales waters – 15
- (a) a United Kingdom ship;
- (b) a ship without nationality; 20
- (c) a foreign ship;
- (d) a ship registered under the law of a relevant territory.
- (2) But Part 1 powers may be exercised only –
- (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25, 25A or 25B, and 25
- (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer, an English and Welsh constable or an enforcement officer may exercise Part 1 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom. 30
- (4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 1 powers in relation to the ship.

**28N Enforcement powers in relation to ships: Scotland** 35

- (1) An immigration officer, a Scottish constable or an enforcement officer may exercise the powers set out in Part 2 of Schedule 4A (“Part 2 powers”) in relation to any of the following in Scotland waters –
- (a) a United Kingdom ship; 40
- (b) a ship without nationality;
- (c) a foreign ship;
- (d) a ship registered under the law of a relevant territory.

- (2) But Part 2 powers may be exercised only –
  - (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25, 25A or 25B, and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer, a Scottish constable or an enforcement officer may exercise Part 2 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom. 5
- (4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 2 powers in relation to the ship. 10

### **28O Enforcement powers in relation to ships: Northern Ireland**

- (1) An immigration officer, a Northern Ireland constable or an enforcement officer may exercise the powers set out in Part 3 of Schedule 4A (“Part 3 powers”) in relation to any of the following in Northern Ireland waters –
  - (a) a United Kingdom ship;
  - (b) a ship without nationality;
  - (c) a foreign ship; 20
  - (d) a ship registered under the law of a relevant territory.
- (2) But Part 3 powers may be exercised only –
  - (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 25, 25A or 25B, and
  - (b) in accordance with the rest of this section. 25
- (3) The authority of the Secretary of State is required before a Northern Ireland constable or an enforcement officer may exercise Part 3 powers in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to the United Kingdom. 30
- (4) Authority for the purposes of subsection (3) may be given in relation to a foreign ship only if the Convention permits the exercise of Part 3 powers in relation to the ship.

### **28P Hot pursuit of ships in United Kingdom waters**

- (1) An immigration officer, an English and Welsh constable or an enforcement officer may exercise Part 1 powers in relation to a ship in Scotland waters or in Northern Ireland waters if –
  - (a) the ship is pursued there,
  - (b) immediately before the pursuit of the ship, the ship was in England and Wales waters, and 40
  - (c) the condition in subsection (7) is met.
- (2) Part 1 powers may be exercised under subsection (1) only –
  - (a) for the purpose mentioned in subsection (2)(a) of section 28M, and
  - (b) (if relevant) in accordance with subsections (3) and (4) of that section. 45

- (3) An immigration officer, a Scottish constable or an enforcement officer may exercise Part 2 powers in relation to a ship in England and Wales waters or in Northern Ireland waters if –
- (a) the ship is pursued there,
  - (b) immediately before the pursuit of the ship, the ship was in Scotland waters, and
  - (c) the condition in subsection (7) is met. 5
- (4) Part 2 powers may be exercised under subsection (3) only –
- (a) for the purpose mentioned in subsection (2)(a) of section 28N, and
  - (b) (if relevant) in accordance with subsections (3) and (4) of that section. 10
- (5) An immigration officer, a Northern Ireland constable or an enforcement officer may exercise Part 3 powers in relation to a ship in England and Wales waters or in Scotland waters if –
- (a) the ship is pursued there,
  - (b) immediately before the pursuit of the ship, the ship was in Northern Ireland waters, and
  - (c) the condition in subsection (7) is met. 15
- (6) Part 3 powers may be exercised under subsection (5) only –
- (a) for the purpose mentioned in subsection (2)(a) of section 28O, and
  - (b) (if relevant) in accordance with subsections (3) and (4) of that section. 20
- (7) The condition referred to in subsection (1)(c), (3)(c) and (5)(c) is that –
- (a) before the pursuit of the ship, a signal is given for it to stop, and
  - (b) the pursuit of the ship is not interrupted. 25
- (8) The signal referred to in subsection (7)(a) must be given in such a way as to be audible or visible from the ship. 30
- (9) For the purposes of subsection (7)(b), pursuit is not interrupted by reason only of the fact that –
- (a) the method of carrying out the pursuit, or
  - (b) the identity of the ship or aircraft carrying out the pursuit, changes during the course of the pursuit. 35
- (10) Nothing in this Part affects any other legal right of hot pursuit that a constable or an enforcement officer may have.

### 28Q Interpretation of Part 3A

- (1) In this Part –
- “the Convention” means the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) and any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom;
  - “enforcement officer” means – 45

- (a) a person who is a commissioned officer of any of Her Majesty's ships, or
  - (b) person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force; 5
- “England and Wales waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales;
- “English and Welsh constable” means only a person who is –
- (a) a member of a police force in England and Wales, 10
  - (b) a member of the British Transport Police Force, or
  - (c) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964. 15
- “foreign ship” means a ship which –
- (a) is registered in a State other than the United Kingdom, or
  - (b) is not so registered but is entitled to fly the flag of a State other than the United Kingdom; 20
- “home state”, in relation to a foreign ship, means –
- (a) the State in which the ship is registered, or
  - (b) the State whose flag the ship is otherwise entitled to fly;
- “Northern Ireland constable” means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve; 25
- “Northern Ireland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Northern Ireland; 30
- “Part 1 powers” means the powers set out in Part 1 of Schedule 4A;
- “Part 2 powers” means the powers set out in Part 2 of that Schedule;
- “Part 3 powers” means the powers set out in Part 3 of that Schedule; 35
- “relevant territory” means –
- (a) the Isle of Man;
  - (b) any of the Channel Islands;
  - (c) a British overseas territory; 40
- “Scottish constable” means only a person who is a constable, within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 (asp 8);
- “Scotland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Scotland; 45
- “ship” includes every description of vessel (including a hovercraft) used in navigation;
- “ship without nationality” means a ship which –
- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or 50

- (b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience;
- “United Kingdom ship” means a ship which –
- (a) is registered under Part 2 of the Merchant Shipping Act 1995, 5
- (b) is a Government ship within the meaning of that Act,
- (c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or 10
- (d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968.
- (2) For the purposes of paragraph (c) of the definition of “United Kingdom ship” in subsection (1), a person has a “United Kingdom connection” if the person is – 15
- (a) a British citizen, a British overseas territories citizen or a British Overseas citizen,
- (b) an individual who is habitually resident in the United Kingdom, or
- (c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.” 20

8 After Schedule 4 insert –

“SCHEDULE 4A Sections 28M, 28N and 28O

ENFORCEMENT POWERS IN RELATION TO SHIPS 25

PART 1

ENGLAND AND WALES

*Introductory*

- 1 (1) This Part of this Schedule sets out the powers exercisable by immigration officers, English and Welsh constables and enforcement officers (referred to in this Part of this Schedule as “relevant officers”) under sections 28M and 28P(1). 30
- (2) In this Part of this Schedule –
- “items subject to legal privilege” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act); 35
- “the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

*Power to stop, board, divert and detain*

- 2 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that – 40
- (a) an offence under section 25, 25A or 25B is being, or has been, committed on the ship, or

- (b) the ship is otherwise being used in connection with the commission of an offence under any of those sections.
- (2) The relevant officer may –
  - (a) stop the ship;
  - (b) board the ship; 5
  - (c) require the ship to be taken to a port in the United Kingdom and detained there.
- (3) The relevant officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2)(c). 10
- (4) A relevant officer must give notice in writing to the master of any ship detained under this paragraph.
- (5) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a relevant officer. 15

*Power to search and obtain information*

- 3 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating –
  - (a) to an offence under section 25, 25A and 25B, or 20
  - (b) to an offence that is connected with an offence under any of those sections.
- (2) The relevant officer may search –
  - (a) the ship;
  - (b) anyone on the ship; 25
  - (c) anything on the ship (including cargo).
- (3) The relevant officer may require a person on the ship to give information about himself or herself or about anything on the ship.
- (4) The power to search conferred by sub-paragraph (2) – 30
  - (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and
  - (b) in the case of a search of a person, does not authorise a relevant officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves. 35
- (5) In exercising a power conferred by sub-paragraph (2) or (3) a relevant officer may –
  - (a) open any containers;
  - (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the relevant officer has reasonable grounds to believe to be an item subject to legal privilege); 40
  - (c) make photographs or copies of anything the production of which the relevant officer has power to require. 45

- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away. 5
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).
- (8) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Power of arrest and seizure* 10

- 4 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that an offence under section 25, 25A or 25B has been, or is being, committed on the ship.
- (2) The relevant officer may arrest without warrant anyone whom the constable or officer has reasonable grounds for suspecting to be guilty of the offence. 15
- (3) The relevant officer may seize and detain anything found on the ship which appears to the officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege). 20
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Protective searches of persons*

- 5 (1) A relevant officer may search a person found on the ship for anything which the officer has reasonable grounds to believe the person might use to – 25
- (a) cause physical injury,
- (b) cause damage to property, or
- (c) endanger the safety of any ship.
- (2) The power conferred by sub-paragraph (1) may be exercised – 30
- (a) only if the officer has reasonable grounds to believe that anything of a kind mentioned in that sub-paragraph is concealed on the person; and
- (b) only to the extent that it is reasonably required for the purpose of discovering any such thing. 35
- (3) The relevant officer may seize and retain anything which the officer has reasonable grounds to believe might –
- (a) cause physical injury,
- (b) cause damage to property, or
- (c) endanger the safety of any ship. 40
- (4) If the person is detained, nothing seized under sub-paragraph (3) may be retained when the person is released from detention.
- (5) A power conferred by this paragraph to search a person does not authorise a relevant officer to require the person to remove any

clothing in public other than an outer coat, jacket or gloves, but it does not authorise the search of a person's mouth.

- (6) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Search for nationality documents* 5

- 6 (1) A relevant officer may require a person found on the ship to produce a nationality document.
- (2) The relevant officer may search a person found on the ship where the officer has reasonable grounds to believe that a nationality document is concealed on the person. 10
- (3) The power conferred by sub-paragraph (2) may be exercised –
- (a) only if the officer has reasonable grounds to believe that a nationality document is concealed on the person; and
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such document. 15
- (4) Subject as follows, the officer may seize and retain a nationality document for as long as the officer believes the person to whom it relates will arrive in the United Kingdom by virtue of the exercise of the power in paragraph 2.
- (5) The power to retain a nationality document in sub-paragraph (4) does not affect any other power of an immigration officer to retain a document. 20
- (6) Where the nationality document has been seized and retained by a relevant officer who is not an immigration officer, the document must be passed to an immigration officer as soon as is practicable after the ship has arrived in the United Kingdom. 25
- (7) The power conferred by this paragraph to search a person does not authorise a relevant officer to –
- (a) require the person to remove any clothing in public other than an outer coat, jacket or gloves, or 30
  - (b) seize and retain any document the officer has reasonable grounds to believe to be an item subject to legal privilege.
- (8) In this paragraph a “nationality document”, in relation to a person, means any document which might –
- (a) establish the person's identity, nationality or citizenship, or 35
  - (b) indicate the place from which the person has travelled to the United Kingdom or to which the person is proposing to go.
- (9) A power conferred by this paragraph may be exercised on the ship or elsewhere. 40

*Assistants*

- 7 (1) A relevant officer may –
- (a) be accompanied by other persons, and

(b) take equipment or materials,  
to assist the officer in the exercise of powers under this Part of this  
Schedule.

- (2) A person accompanying a relevant officer under sub-paragraph  
(1) may perform any of the officer's functions under this Part of  
this Schedule, but only under the officer's supervision. 5

*Reasonable force*

- 8 A relevant officer may use reasonable force, if necessary, in the  
performance of functions under this Part of this Schedule.

*Evidence of authority* 10

- 9 A relevant officer must produce evidence of the officer's authority  
if asked to do so.

*Protection of constables and enforcement officers*

- 10 A relevant officer is not liable in any criminal or civil proceedings  
for anything done in the purported performance of functions  
under this Part of this Schedule if the court is satisfied that— 15
- (a) the act was done in good faith, and
  - (b) there were reasonable grounds for doing it.

*Offences*

- 11 (1) A person commits an offence under the law of England and Wales  
if the person— 20
- (a) intentionally obstructs a relevant officer in the  
performance of functions under this Part of this Schedule,  
or
  - (b) fails without reasonable excuse to comply with a  
requirement made by a relevant officer in the performance  
of those functions. 25
- (2) A person who provides information in response to a requirement  
made by a relevant officer in the performance of functions under  
this Part of this Schedule commits an offence under the law of  
England and Wales if— 30
- (a) the information is false in a material particular, and the  
person either knows it is or is reckless as to whether it is, or
  - (b) the person intentionally fails to disclose any material  
particular. 35
- (3) A relevant officer may arrest without warrant anyone whom the  
officer has reasonable grounds for suspecting to be guilty of an  
offence under this paragraph.
- (4) A person guilty of an offence under this paragraph is liable on  
summary conviction to imprisonment for a term not exceeding 51  
weeks, to a fine or to both. 40
- (5) In the application of sub-paragraph (4) in relation to an offence  
committed before the coming into force of section 281(5) of the

Criminal Justice Act 2003 the reference to 51 weeks is to be read as a reference to 6 months.

PART 2

SCOTLAND

*Introductory* 5

12 (1) This Part of this Schedule sets out the powers exercisable by immigration officers, Scottish constables and enforcement officers (referred to in this Part of this Schedule as “relevant officers”) under sections 28N and 28P(3).

(2) In this Part of this Schedule –  
“items subject to legal privilege” has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);

“the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised. 15

*Power to stop, board, divert and detain*

13 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that –

(a) an offence under section 25, 25A or 25B is being, or has been, committed on the ship, or 20

(b) the ship is otherwise being used in connection with the commission of an offence under any of those sections.

(2) The relevant officer may –

(a) stop the ship; 25

(b) board the ship;

(c) require the ship to be taken to a port in the United Kingdom and detained there.

(3) The relevant officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2)(c). 30

(4) A relevant officer must give notice in writing to the master of any ship detained under this paragraph.

(5) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a relevant officer. 35

*Power to search and obtain information*

14 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating –

(a) to an offence under section 25, 25A or 25B, or 40

(b) to an offence that is connected with an offence under any of those sections.

- (2) The relevant officer may search—
- (a) the ship;
  - (b) anyone on the ship;
  - (c) anything on the ship (including cargo).
- (3) The relevant officer may require a person on the ship to give information about himself or herself or about anything on the ship. 5
- (4) The power to search conferred by sub-paragraph (2)—
- (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and 10
  - (b) in the case of a search of a person, does not authorise a relevant officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.
- (5) In exercising a power conferred by sub-paragraph (2) or (3) a relevant officer may— 15
- (a) open any containers;
  - (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the relevant officer has reasonable grounds to believe to be an item subject to legal privilege); 20
  - (c) make photographs or copies of anything the production of which the relevant officer has power to require.
- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away. 25
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3). 30
- (8) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Power of arrest and seizure*

- 15 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that an offence under section 25, 25A or 25B has been, or is being, committed on the ship. 35
- (2) The relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence.
- (3) The relevant officer may seize and detain anything found on the ship which appears to the officer to be evidence of the offence (but not including anything that the officer has reasonable grounds to believe to be an item subject to legal privilege). 40
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere. 45

*Protective searches of persons*

- 16 (1) The relevant officer may search a person found on the ship for anything which the officer has reasonable grounds to believe the person might use to –
- (a) cause physical injury, 5
  - (b) cause damage to property, or
  - (c) endanger the safety of any ship.
- (2) The power conferred by sub-paragraph (1) may be exercised –
- (a) only if the officer has reasonable grounds to believe that anything of a kind mentioned in that sub-paragraph is concealed on the person; and 10
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (3) The relevant officer may seize and retain anything which the officer has reasonable grounds to believe might – 15
- (a) cause physical injury,
  - (b) cause damage to property, or
  - (c) endanger the safety of any ship.
- (4) If the person is detained, nothing seized under sub-paragraph (3) may be retained when the person is released from detention. 20
- (5) A power conferred by this paragraph to search a person does not authorise a relevant officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves, but it does authorise the search of a person’s mouth.
- (6) A power conferred by this paragraph may be exercised on the ship or elsewhere. 25

*Search for nationality documents*

- 17 (1) The relevant officer may require a person found on the ship to produce a nationality document.
- (2) The relevant officer may search a person found on the ship where the officer has reasonable grounds to believe that a nationality document is concealed on the person. 30
- (3) The power conferred by sub-paragraph (2) may be exercised –
- (a) only if the officer has reasonable grounds to believe that a nationality document is concealed on the person; and 35
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such document.
- (4) Subject as follows, the officer may seize and retain a nationality document for as long as the officer believes the person to whom it relates will arrive in the United Kingdom by virtue of the exercise of the power in paragraph 13. 40
- (5) The power to retain a nationality document in sub-paragraph (4) does not affect any other power of an immigration officer to retain a document.

- (6) Where the nationality document has been seized and retained by a relevant officer who is not an immigration officer, the document must be passed to an immigration officer as soon as is practicable after the ship has arrived in the United Kingdom.
- (7) The power conferred by this paragraph to search a person does not authorise a relevant officer to –
- (a) require the person to remove any clothing in public other than an outer coat, jacket or gloves, or
  - (b) seize and retain any document the officer has reasonable grounds to believe to be an item subject to legal privilege.
- (8) In this paragraph a “nationality document”, in relation to a person, means any document which might –
- (a) establish the person’s identity, nationality or citizenship, or
  - (b) indicate the place from which the person has travelled to the United Kingdom or to which the person is proposing to go.
- (9) A power conferred by this paragraph may be exercised on the ship or elsewhere.
- Assistants*
- 18 (1) A relevant officer may –
- (a) be accompanied by other persons, and
  - (b) take equipment or materials,
- to assist the officer in the exercise of powers under this Part of this Schedule.
- (2) A person accompanying a relevant officer under sub-paragraph (1) may perform any of the officer’s functions under this Part of this Schedule, but only under the officer’s supervision.
- Reasonable force*
- 19 A relevant officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule.
- Evidence of authority*
- 20 A relevant officer must produce evidence of the officer’s authority if asked to do so.
- Protection of constables and enforcement officers*
- 21 A relevant officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that –
- (a) the act was done in good faith, and
  - (b) there were reasonable grounds for doing it.

*Offences*

- 22 (1) A person commits an offence under the law of Scotland if the person—
- (a) intentionally obstructs a relevant officer in the performance of functions under this Part of this Schedule, or
  - (b) fails without reasonable excuse to comply with a requirement made by a relevant officer in the performance of those functions.
- (2) A person who provides information in response to a requirement made by a relevant officer in the performance of functions under this Part of this Schedule commits an offence under the law of Scotland if—
- (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
  - (b) the person intentionally fails to disclose any material particular.
- (3) A relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this paragraph.
- (4) A person guilty of an offence under this paragraph is liable on summary conviction to imprisonment for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.

PART 3

NORTHERN IRELAND

*Introductory*

- 23 (1) This Part of this Schedule sets out the powers exercisable by immigration officers, Northern Ireland constables and enforcement officers (referred to in this Part of this Schedule as “relevant officers”) under sections 28O and 28P(5).
- (2) In this Part of this Schedule—
- “items subject to legal privilege” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (1989/1341 (N.I. 12)) (see Article 12 of that Order);
  - “the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

*Power to stop, board, divert and detain*

- 24 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that—
- (a) an offence under section 25, 25A or 25B is being, or has been, committed on the ship, or

- (b) the ship is otherwise being used in connection with the commission of an offence under any of those sections.
- (2) The relevant officer may –
- (a) stop the ship;
  - (b) board the ship; 5
  - (c) require the ship to be taken to a port (in England and Wales or elsewhere) and detained there.
- (3) The relevant officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of sub-paragraph (2)(c). 10
- (4) A relevant officer must give notice in writing to the master of any ship detained under this paragraph.
- (5) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a relevant officer. 15

*Power to search and obtain information*

- 25 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating –
- (a) to an offence under section 25, 25A or 25B, or 20
  - (b) to an offence that is connected with an offence under any of those sections.
- (2) The relevant officer may search –
- (a) the ship;
  - (b) anyone on the ship; 25
  - (c) anything on the ship (including cargo).
- (3) The relevant officer may require a person on the ship to give information about himself or herself or about anything on the ship.
- (4) The power to search conferred by sub-paragraph (2) – 30
- (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and
  - (b) in the case of a search of a person, does not authorise a relevant officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves. 35
- (5) In exercising a power conferred by sub-paragraph (2) or (3) a relevant officer may –
- (a) open any containers;
  - (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the officer has reasonable grounds to believe to be an item subject to legal privilege); 40
  - (c) make photographs or copies of anything the production of which the officer has power to require. 45

- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away. 5
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).
- (8) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Power of arrest and seizure* 10

- 26 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that an offence under section 25, 25A or 25B has been, or is being, committed on the ship.
- (2) The relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence. 15
- (3) The relevant officer may seize and detain anything found on the ship which appears to the officer to be evidence of the offence (but not including anything that the constable or officer has reasonable grounds to believe to be an item subject to legal privilege). 20
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Protective searches of persons*

- 27 (1) The relevant officer may search a person found on the ship for anything which the officer has reasonable grounds to believe the person might use to – 25
  - (a) cause physical injury,
  - (b) cause damage to property, or
  - (c) endanger the safety of any ship.
- (2) The power conferred by sub-paragraph (1) may be exercised – 30
  - (a) only if the officer has reasonable grounds to believe that anything of a kind mentioned in that sub-paragraph is concealed on the person; and
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such thing. 35
- (3) The relevant officer may seize and retain anything which the officer has reasonable grounds to believe might –
  - (a) cause physical injury,
  - (b) cause damage to property, or
  - (c) endanger the safety of any ship 40
- (4) If the person is detained, nothing seized under sub-paragraph (3) may be retained when the person is released from detention.
- (5) A power conferred by this paragraph to search a person does not authorise a relevant officer to require the person to remove any

clothing in public other than an outer coat, jacket or gloves, but it does not authorise the search of a person's mouth.

- (6) A power conferred by this paragraph may be exercised on the ship or elsewhere.

*Search for nationality documents*

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- 28 (1) The relevant officer may require a person found on the ship to produce a nationality document.

- (2) The relevant officer may search a person found on the ship where the officer has reasonable grounds to believe that a nationality document is concealed on the person.

10

- (3) The power conferred by sub-paragraph (2) may be exercised –  
 (a) only if the officer has reasonable grounds to believe that a nationality document is concealed on the person; and  
 (b) only to the extent that it is reasonably required for the purpose of discovering any such document.

15

- (4) Subject as follows, the officer may seize and retain a nationality document for as long as the officer believes the person to whom it relates will arrive in the United Kingdom by virtue of the exercise of the power in paragraph 24.

- (5) The power to retain a nationality document in sub-paragraph (4) does not affect any other power of an immigration officer to retain a document.

20

- (6) Where the nationality document has been seized and retained by a relevant officer who is not an immigration officer, the document must be passed to an immigration officer as soon as is practicable after the ship has arrived in the United Kingdom.

25

- (7) The power conferred by this paragraph to search a person does not authorise a relevant officer to –

- (a) require the person to remove any clothing in public other than an outer coat, jacket or gloves, or  
 (b) seize and retain any document the officer has reasonable grounds to believe to be an item subject to legal privilege.

30

- (8) In this paragraph a “nationality document”, in relation to a person, means any document which might –

- (a) establish the person's identity, nationality or citizenship, or  
 (b) indicate the place from which the person has travelled to the United Kingdom or to which the person is proposing to go.

35

- (9) A power conferred by this paragraph may be exercised on the ship or elsewhere.

40

*Assistants*

- 29 (1) A relevant officer may –  
 (a) be accompanied by other persons, and

(b) take equipment or materials,  
to assist the officer in the exercise of powers under this Part of this  
Schedule.

- (2) A person accompanying a relevant officer under sub-paragraph  
(1) may perform any of the officer’s functions under this Part of  
this Schedule, but only under the officer’s supervision. 5

*Reasonable force*

- 30 A relevant officer may use reasonable force, if necessary, in the  
performance of functions under this Part of this Schedule.

*Evidence of authority* 10

- 31 A relevant officer must produce evidence of the officer’s authority  
if asked to do so.

*Protection of constables and enforcement officers*

- 32 A relevant officer is not liable in any criminal or civil proceedings  
for anything done in the purported performance of functions  
under this Part of this Schedule if the court is satisfied that – 15  
(a) the act was done in good faith, and  
(b) there were reasonable grounds for doing it.

*Offences*

- 33 (1) A person commits an offence under the law of Northern Ireland if  
the person – 20  
(a) intentionally obstructs a relevant officer in the  
performance of functions under this Part of this Schedule,  
or  
(b) fails without reasonable excuse to comply with a  
requirement made by a relevant officer in the performance  
of those functions. 25
- (2) A person who provides information in response to a requirement  
made by a relevant officer in the performance of functions under  
this Part of this Schedule commits an offence under the law of  
Northern Ireland if – 30  
(a) the information is false in a material particular, and the  
person either knows it is or is reckless as to whether it is, or  
(b) the person intentionally fails to disclose any material  
particular. 35
- (3) A relevant officer may arrest without warrant anyone whom the  
officer has reasonable grounds for suspecting to be guilty of an  
offence under this paragraph.
- (4) A person guilty of an offence under this paragraph is liable on  
summary conviction to imprisonment for a term not exceeding 6  
months, to a fine not exceeding level 5 on the standard scale or to  
both.” 40

SCHEDULE 9

Section 50

CIVIL REGISTRATION FEES

PART 1

POWERS TO MAKE REGULATIONS FOR THE CHARGING OF FEES

	<i>Marriage Act 1949 (c. 76)</i>	5
1	Before section 72 of the Marriage Act 1949 (but after the heading of Part 6 of that Act) insert –	
	<b>“71A Fees</b>	
	(1) <i>The Secretary of State may by regulations provide for fees to be payable to such persons as may be prescribed in respect of –</i>	10
	(a) the giving of notice of a marriage to a superintendent registrar;	
	(b) an application for the reduction of the waiting period in relation to a notice of marriage (see section 31(5A));	
	(c) the registration for the solemnization of marriages of a building certified as required by law as a place of religious worship, or the cancellation of such a registration;	15
	(d) the authorisation of a person to be present at the solemnization of marriages in such a building;	
	(e) the presence of a superintendent registrar or registrar at a marriage (except in a case falling within section 51(1A));	20
	(f) the delivery under section 57(1) of a certified copy of entries in a marriage register book;	
	(g) the carrying out of a search of –	
	(i) any marriage register book,	25
	(ii) any index kept in relation to such a book, or	
	(iii) certified copies of entries in such a book;	
	(h) the provision of a certified copy, or other record of information, relating to an entry in a marriage register book;	
	(i) the issue of the Registrar General’s licence under section 7 of the Marriage (Registrar General’s Licence) Act 1970;	30
	(j) such other marriage services as may be prescribed.	
	(2) Regulations under this section may –	
	(a) specify the amount of any fee payable under the regulations, or	35
	(b) set out how such a fee is to be determined.	
	(3) Subsection (4) applies where the regulations provide for a fee to be payable to a superintendent registrar or registrar.	
	(4) The regulations may provide for such part of the fee as may be specified by or determined in accordance with the regulations to be payable by the superintendent registrar or registrar to the Registrar General in prescribed circumstances.	40

- (5) The regulations may provide for the reimbursement, reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise.
- (6) Regulations under this section must be made by statutory instrument. 5
- (7) Regulations under this section may –
- (a) provide for exemptions from any of the provisions of the regulations;
  - (b) contain such consequential, incidental, supplemental and transitional provision as the Secretary of State considers appropriate. 10
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section – 15
- “marriage services” means services in connection with marriages which are provided by or on behalf of the Registrar General, a superintendent registrar or registrar;
  - “prescribed” means prescribed in regulations made under this section.” 20

*Births and Deaths Registration Act 1953 (c. 20)*

- 2 Before section 39 of the Births and Deaths Registration Act 1953 (but after the cross-heading above that section) insert –

**“38A Fees**

- (1) *The Minister may by regulations provide for fees to be payable to such persons as may be prescribed in respect of –* 25
- (a) the issue of a certificate under section 13(2);
  - (b) the carrying out of a search of – 30
    - (i) any register of births or register of deaths,
    - (ii) any index kept in relation to such a register, or
    - (iii) certified copies of entries in such a register;
  - (c) the provision of a certified copy, or other record of information, relating to an entry in a register of births or a register of deaths;
  - (d) the provision of a short certificate of birth or a short certificate of death (see sections 33 and 33A); 35
  - (e) such other birth or death registration services as may be prescribed.
- (2) Regulations under this section may – 40
- (a) specify the amount of any fee payable under the regulations, or
  - (b) set out how such a fee is to be determined.
- (3) Subsection (4) applies where the regulations provide for a fee to be payable to a superintendent registrar or registrar.

- (4) The regulations may provide for such part of the fee as may be specified by or determined in accordance with the regulations to be payable by the superintendent registrar or registrar to the Registrar General in prescribed circumstances.
- (5) The regulations may provide for the reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise. 5
- (6) In this section –
- “birth or death registration services” means services in connection with the registration of births or deaths which are provided – 10
- (a) by or on behalf of the Registrar General, a superintendent registrar or registrar, or
- (b) by any other person;
- “prescribed” means prescribed in regulations made under this section.” 15

*Registration Service Act 1953 (c. 37)*

3 After section 19A of the Registration Service Act 1953 insert –

**“19B Fees in respect of provision of copies of records etc**

- (1) *The Minister may by regulations provide for fees to be payable to the Registrar General in respect of the provision by the Registrar General to any persons of copies or other records of any information held by the Registrar General.* 20
- (2) The regulations may –
- (a) specify the amount of any fee payable under the regulations, or 25
- (b) set out how such a fee is to be determined.
- (3) The regulations may provide for the reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise.
- (4) Regulations under this section must be made by statutory instrument. 30
- (5) Regulations under this section may –
- (a) make different provision for different cases;
- (b) provide for exemptions from any of the provisions of the regulations;
- (c) contain such consequential, incidental, supplemental and transitional provision as the Minister considers appropriate. 35
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

*Civil Partnership Act 2004 (c. 33)* 40

- 4 (1) Section 34 of the Civil Partnership Act 2004 (fees) is amended as follows.
- (2) In subsection (1), omit “, of such amounts as may be specified in the order,”.

- (3) After subsection (1) insert –
- “(1A) An order under this section may –
- (a) specify the amount of any fee payable under the order, or
  - (b) set out how such a fee is to be determined.
- (1B) Subsection (1C) applies where the order provides for a fee to be payable to a registration authority. 5
- (1C) The order may provide for such part of the fee as may be specified by or determined in accordance with the order to be payable by the registration authority to the Registrar General in such circumstances as may be prescribed by the order.” 10
- (4) For subsection (2) substitute –
- “(2) The order may provide for the reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise.”

*Marriage (Same Sex Couples) Act 2013 (c. 30)*

- 5 In section 9 of the Marriage (Same Sex Couples) Act 2013 (conversion of civil partnership into marriage) after subsection (5) insert – 15
- “(5A) Subsection (5B) applies where regulations under this section provide for a fee to be payable to a superintendent registrar or registrar.
- (5B) The regulations may provide for such part of the fee as may be specified in or determined in accordance with the regulations to be payable by the superintendent registrar or registrar to the Registrar General in such circumstances as may be set out in the regulations. 20
- (5C) The regulations may provide for the reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise.”

PART 2 25

CONSEQUENTIAL AND RELATED AMENDMENTS

*Places of Worship Registration Act 1855 (c. 81)*

- 6 For section 5 of the Places of Worship Registration Act 1855 (fee to superintendent registrar) substitute –
- “5 Fees 30**
- (1) *The Secretary of State may by regulations provide for fees to be payable to such persons as may be prescribed in the regulations in respect of the certification to the Registrar General under this Act of a place of meeting for religious worship.*
- (2) Regulations under this section may – 35
- (a) specify the amount of any fee payable under the regulations, or
  - (b) set out how such a fee is to be determined.
- (3) Subsection (4) applies where the regulations provide for a fee to be payable to a superintendent registrar. 40

- (4) The regulations may provide for such part of the fee as may be specified by or determined in accordance with the regulations to be payable by the superintendent registrar to the Registrar General in such circumstances as may be set out in the regulations.
- (5) The regulations may provide for the reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise. 5
- (6) Regulations under this section must be made by statutory instrument.
- (7) Regulations under this section may –
- (a) make different provision for different cases; 10
  - (b) provide for exemptions from any of the provisions of the regulations;
  - (c) contain such consequential, incidental, supplemental and transitional provision as the Secretary of State considers appropriate. 15
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

*Savings Banks Act 1887 (c. 40)*

- 7 In section 10 of the Savings Banks Act 1887 (price of certificate of birth, death or marriage) – 20
- (a) the existing text becomes subsection (1),
  - (b) in that subsection (1), after “entered for” insert “, where the birth, death or marriage is registered in England and Wales, the appropriate fee or in any other case for”, and 25
  - (c) after that subsection insert –
- “(2) In subsection (1), “the appropriate fee” means the fee payable to the registrar or other person having care of the register concerned for a certified copy of an entry in the register by virtue of section 38A of the Births and Deaths Registration Act 1953 or section 71A of the Marriage Act 1949.” 30

*Marriage Act 1949 (c. 76)*

- 8 The Marriage Act 1949 is amended as follows.
- 9 In section 27 (notice of marriage) omit subsections (6) and (7).
- 10 In section 31 (marriage under certificate without licence) – 35
- (a) omit subsections (5F) and (5G),
  - (b) in subsection (5H), omit “or an order under subsection (5F)”, and
  - (c) omit subsection (5I).
- 11 In section 41 (registration of buildings: marriage of a man and a woman) omit subsection (6). 40
- 12 In section 43D (regulations about registration of buildings) in subsection (1), omit “and the fees payable”.
- 13 In section 51 (fees of registrars for attending marriages) –

	(a) for the heading substitute “Fees of superintendent registrars for attending marriages in approved premises”,	
	(b) omit subsection (1),	
	(c) in subsection (1A), omit paragraph (a) (and the “but” after it), and	
	(d) omit subsection (2).	5
14	In section 57 (quarterly returns to superintendent registrar) omit subsection (4).	
15	In section 63 (searches in register books) in subsection (1), omit from “, on payment” to the end.	
16	In section 64 (searches of indexes kept by superintendent registrars) in subsection (2), omit from “, on payment” to the end.	10
17	In section 65 (searches of indexes kept by Registrar General) in subsection (2), omit from “, on payment” to the end.	
18	In section 65A (searches and records of information: additional provision) omit subsection (2).	15
19	In section 74 (regulations) in subsection (1)(b), after “this Act” insert “(other than section 71A)”.	
20	In section 78 (interpretation) in subsection (1), in the definition of “prescribed” after ““prescribed”” insert “(other than in section 71A)”.	
	<i>Births and Deaths Registration Act 1953 (c. 20)</i>	20
21	The Births and Deaths Registration Act 1953 is amended as follows.	
22	In section 13 (registration of name of child or of alteration of name) in subsection (2), omit “on payment of a fee not exceeding £1.00”.	
23	In section 30 (searches of indexes kept by Registrar General) –	
	(a) in subsection (2), omit from “, on payment” to the end, and	25
	(b) in subsection (3), omit “and on payment as aforesaid of the appropriate fee aforesaid”.	
24	In section 31 (searches of indexes kept by superintendent registrars) in subsection (2), omit from “, on payment” to the end.	
25	In section 32 (searches in registers kept by registrars) omit from “, on payment” to the end of paragraph (c).	30
26	In section 33 (short certificate of birth) in subsection (1), omit from “on payment” to “and”.	
27	In section 33A (short certificate of death) –	
	(a) in subsection (1), for paragraphs (a) and (b) substitute “, on furnishing the prescribed particulars,” and	35
	(b) omit subsection (3).	
28	In section 34A (searches and records of information: additional provision) omit subsection (2).	
29	In section 39 (regulations made by the Registrar General) in paragraph (a), for “and 34A” substitute “, 34A and 38A”.	40

30	In section 39A (regulations made by the Minister: further provisions) – (a) in subsection (1)(c), after “such” insert “consequential,”, (b) in subsection (2), after “provisions” insert “other than section 38A”, and (c) in subsection (5), for “and 34A” substitute “, 34A and 38A”.	5
31	In section 41 (interpretation) in subsection (1), in the definition of “prescribed”, for “and 10C” substitute “, 10C and 38A”.	
<i>Registration Service Act 1953 (c. 37)</i>		
32	Omit section 16 of the Registration Service Act 1953 (general provision as to fees).	10
<i>Factories Act 1961 (c. 34)</i>		
33	In section 178 of the Factories Act 1961 (certificates of birth) – (a) in subsection (1), after “payment of” insert “the appropriate fee in England and Wales or”, (b) also in subsection (1), before “, be entitled” insert “in Scotland”, and (c) after subsection (2) insert – “(3) In subsection (1), “the appropriate fee” means the fee payable to a registrar or superintendent registrar for a certified copy of an entry in the register concerned by virtue of section 38A of the Births and Deaths Registration Act 1953.”	15
		20
<i>Public Expenditure and Receipts Act 1968 (c. 14)</i>		
34	In Schedule 3 to the Public Expenditure and Receipts Act 1968 (variation of fees) – (a) omit the entry relating to the Education Act 1996, (b) omit the entry relating to the Marriage Act 1949, (c) omit the entry relating to the Births and Deaths Registration Act 1953, (d) in the entry relating to the Savings Banks Act 1887, in the second column, omit “Secretary of State or, as regards Scotland, the”, (e) in the entry relating to the Factories Act 1961, in the second column, omit “Secretary of State or, as regards Scotland, the”, (f) in the entry relating to the Social Security Administration Act 1992, in the second column, omit “Secretary of State or, as regards Scotland, the”, and (g) omit the entry for the Places of Worship Registration Act 1855.	25
		30
		35
<i>Marriage (Registrar General’s Licence) Act 1970 (c. 34)</i>		
35	Omit section 17 of the Marriage (Registrar General’s Licence) Act 1970 (fees).	
<i>Social Security Administration Act 1992 (c. 5)</i>		
36	(1) Section 124 of the Social Security Administration Act 1992 (provisions relating to age, death and marriage) is amended as follows.	40

- (2) In subsection (3), for the words from “a fee” to “Wales and” substitute “the appropriate fee in England and Wales and a fee of”.
- (3) In subsection (3A), for paragraph (b) substitute –  
    “(b) on payment of the appropriate fee;”.
- (4) In subsection (5), in paragraph (a) after the opening words insert – 5  
    ““the appropriate fee” means the fee payable to the registrar or superintendent registrar for a certified copy of an entry in the register concerned by virtue of section 38A of the Births and Deaths Registration Act 1953, section 71A of the Marriage Act 1949 or section 9 of the Marriage (Same Sex Couples) Act 2013.” 10

*Education Act 1996 (c. 56)*

- 37 (1) Section 564 of the Education Act 1996 (certificates of birth and registrars’ returns) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute – 15  
    “(b) on payment of the appropriate fee;”.
- (3) In subsection (4) –
  - (a) after the opening words insert – 20  
        ““the appropriate fee” means the fee payable to the registrar having custody of the register concerned for a certified copy of an entry in the register by virtue of section 38A of the Births and Deaths Registration Act 1953;”, and
  - (b) in the definition of “register of births and deaths”, for “the Births and Deaths Registration Act 1953” substitute “that Act”. 25

# Immigration Bill

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A

## B I L L

To make provision about the law on immigration and asylum; to make provision about access to services, facilities, licences and work by reference to immigration status; to make provision about the Director of Labour Market Enforcement; to make provision about language requirements for public sector workers; to make provision about fees for passports and civil registration; and for connected purposes.

*Presented by Secretary Theresa May,  
supported by The Prime Minister,  
Mr Chancellor of the Exchequer,  
Secretary Sajid Javid,  
Secretary Iain Duncan Smith,  
Secretary Greg Clark, Secretary Nicky Morgan,  
Secretary Patrick McLoughlin, Matthew Hancock  
and James Brokenshire.*

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to be Printed, 17 September 2015.*

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