

- (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.”

PART 6 5

~~GENERAL~~

PART 7

GENERAL

29 In section 10 of the Licensing Act 2003, (sub-delegation of functions by licensing committee etc), in subsection (4)(a), in sub-paragraphs (v), (vi) and (x), omit “police”. 10

30 (1) Section 193 of the Licensing Act 2003 (other definitions) is amended as follows. 15

(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.”

31 In section 194 of the Licensing Act 2003 (index of defined expressions), insert the following entries at the appropriate places – 20

“entitled to work in the United Kingdom	section 192A”
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25

“immigration offence	section 113”
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“immigration penalty (and required to pay, in relation to an immigration penalty)	section 113”
---	--------------

30

35

“working
 illegally, in
 relation to the
 prevention of
 illegal
 working in
 licensed
 premises”

section 193”

5

32 [In the Police Reform and Social Responsibility Act 2011, omit sections 109\(9\) and \(10\) and 111\(3\) and \(5\).](#)

10

PART 8

TRANSITIONAL PROVISION

33 [The amendments of sections 13, 16, 42, 47 and 120 of the Licensing Act 2003 made by paragraphs 3, 4, 6, 9 and 15 respectively of this Schedule do not apply in relation to applications made, or interim authority notices given, before the coming into force of the respective paragraph.](#)

15

34 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

35 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.

36 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.

25

SCHEDULE 2

Section 11

[PRIVATE HIRE VEHICLES ETC](#)

30

[Metropolitan Public Carriage Act 1869 \(c. 115\)](#)

1 [The Metropolitan Public Carriage Act 1869 is amended as follows.](#)

2 [In section 8\(7\) \(driver’s licence to be in force for three years unless suspended or revoked\) for “A” substitute “Subject to section 8A, a”.](#)

35

3 [After section 8 insert—](#)

“8A Drivers’ licences for persons subject to immigration control

- (1) [Subsection \(2\) applies if—](#)

- (a) a licence under section 8 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”),
- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision), and 5
- (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.
- (2) Transport for London must grant the licence for a period which ends at or before the end of the leave period. 10
- (3) Subsection (4) applies if –
- (a) a licence under section 8 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period, and
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision). 15
- (4) Transport for London must grant the licence for a period that does not exceed six months. 20
- (5) A licence under section 8 ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from driving a hackney carriage.
- (6) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return to Transport for London – 25
- (a) the licence,
- (b) the person’s copy of the licence (if any), and
- (c) the person’s driver’s badge. 30
- (7) A person who, without reasonable excuse, contravenes subsection (6) is guilty of an offence and liable on summary conviction –
- (a) to a fine not exceeding level 3 on the standard scale, and
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction. 35
- (8) For the purposes of this section a person is disqualified by reason of the person’s immigration status from driving a hackney carriage if the person is subject to immigration control and – 40
- (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 –
- (i) is invalid,
- (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or 45

- (iii) is subject to a condition preventing the individual from driving a hackney carriage.
- (9) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016 –
 - (a) the person is to be treated for the purposes of this section as if the person had been granted leave to enter the United Kingdom, but 5
 - (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.
- (10) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.” 10

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 4 The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows. 15
- 5 (1) Section 51 (licensing of drivers of private hire vehicles) is amended as follows.
 - (2) In subsection (1) –
 - (a) in paragraph (a) after “satisfied” insert “– (i)”, and 20
 - (b) for the “or” at the end of paragraph (a) substitute “and
 - (ii) that the applicant is not disqualified by reason of the applicant’s immigration status from driving a private hire vehicle; or”.
 - (3) After subsection (1) insert – 25
 - “(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant’s immigration status from driving a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.”
- 6 In section 53(1) (drivers’ licences for hackney carriages and private hire vehicles) – 30
 - (a) in paragraph (a) for “Every” substitute “Subject to section 53A, every”, and
 - (b) in paragraph (b) after “1889,” insert “but subject to section 53A,”.
- 7 After section 53 insert – 35

“53A Drivers’ licences for persons subject to immigration control

 - (1) Subsection (2) applies if –
 - (a) a licence within section 53(1)(a) or (b) is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”); 40
 - (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision); and

- (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.
- (2) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must end at or before the end of the leave period. 5
- (3) Subsection (4) applies if –
- (a) a licence within section 53(1)(a) or (b) is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period; and 10
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).
- (4) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must not exceed six months. 15
- (5) A licence within section 53(1)(a) ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from driving a private hire vehicle.
- (6) A licence within section 53(1)(b) ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from driving a hackney carriage. 20
- (7) If subsection (5) or (6) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return the licence and the person’s driver’s badge to the district council which granted the licence. 25
- (8) A person who, without reasonable excuse, contravenes subsection (7) is guilty of an offence and liable on summary conviction –
- (a) to a fine not exceeding level 3 on the standard scale; and 30
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.”
- 8 (1) Section 55 (licensing of operators of private hire vehicles) is amended as follows. 35
- (2) In subsection (1) –
- (a) after “satisfied” insert “– (a)”, and
- (b) at the end of paragraph (a) insert “; and
- (b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant’s immigration status from operating a private hire vehicle.” 40
- (3) After subsection (1) insert –
- “(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant’s immigration status from operating a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.”

- (4) In subsection (2) for “Every” substitute “Subject to section 55ZA, every”.
- 9 After section 55 insert –
- “55ZA Operators’ licences for persons subject to immigration control** 5
- (1) Subsection (2) applies if –
- (a) a licence under section 55 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”);
- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision); and 10
- (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.
- (2) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must end at or before the end of the leave period. 15
- (3) Subsection (4) applies if –
- (a) a licence under section 55 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period; and 20
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).
- (4) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must not exceed six months. 25
- (5) A licence under section 55 ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from operating a private hire vehicle. 30
- (6) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return it to the district council which granted the licence.
- (7) A person who, without reasonable excuse, contravenes subsection (6) is guilty of an offence and liable on summary conviction – 35
- (a) to a fine not exceeding level 3 on the standard scale; and
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.” 40
- 10 (1) Section 59 (qualification for drivers of hackney carriages) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a) after “satisfied” insert “– (i)”, and 45

- (b) for the “or” at the end of paragraph (a) substitute “and
 (ii) that the applicant is not disqualified by reason of the applicant’s immigration status from driving a hackney carriage; or”.
- (3) After subsection (1) insert – 5
- “(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant’s immigration status from driving a hackney carriage, a district council must have regard to any guidance issued by the Secretary of State.”
- 11 In section 61(1) (suspension and revocation of drivers’ licences) before the “or” at the end of paragraph (a) insert – 10
- “(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;”.
- 12 In section 62(1) (suspension and revocation of operators’ licences) before the “or” at the end of paragraph (c) insert – 15
- “(ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;”.
- 13 In section 77 (appeals) after subsection (3) insert – 20
- “(4) On an appeal under this Part of this Act or an appeal under section 302 of the Act of 1936 as applied by this section, the court is not entitled to entertain any question as to whether –
- (a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom; or 25
- (b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.”
- 14 After section 79 insert – 30
- “79A Persons disqualified by reason of immigration status**
- (1) For the purposes of this Part of this Act a person is disqualified by reason of the person’s immigration status from carrying on a licensable activity if the person is subject to immigration control and – 35
- (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 –
- (i) is invalid; 40
- (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 individual from carrying on the licensable activity. 45
- (2) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016 –

- (a) the person is to be treated for the purposes of this Part of this Act 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
- (3) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.
- (4) For the purposes of this section a person carries on a licensable activity if the person – 10
 - (a) drives a private hire vehicle;
 - (b) operates a private hire vehicle; or
 - (c) drives a hackney carriage.

79B Immigration offences and immigration penalties 15

- (1) In this Part of this Act “immigration offence” means –
 - (a) an offence under any of the Immigration Acts;
 - (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence within paragraph (a); or
 - (c) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence within paragraph (a). 20
- (2) In this Part of this Act “immigration penalty” means a penalty under –
 - (a) section 15 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”); or 25
 - (b) section 23 of the Immigration Act 2014 (“the 2014 Act”).
- (3) For the purposes of this Part of this Act 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 – 30
 - (a) the person is excused payment by virtue of section 15(3) of that Act; or
 - (b) the penalty is cancelled by virtue of section 16 or 17 of that Act.
- (4) For the purposes of this Part of this Act 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 – 35
 - (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 40
 - (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.
- (5) For the purposes of this Part of this Act 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 – 45

- (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.
- (6) For the purposes of this Part of this Act 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

Private Hire Vehicles (London) Act 1998 (c. 34)

- 15 The Private Hire Vehicles (London) Act 1998 is amended as follows. 15
- 16 In section 1(1) (meaning of “private hire vehicle” etc) –
 - (a) omit the “and” at the end of paragraph (a), and
 - (b) at the end of paragraph (b) insert “; and
 - (c) “operate”, in relation to a private hire vehicle, means to make provision for the invitation or acceptance of, or to accept, private hire bookings in relation to the vehicle.” 20
- 17 (1) Section 3 (London operator’s licences) is amended as follows.
 - (2) In subsection (3) for the “and” at the end of paragraph (a) substitute – 25
 - “(aa) if the applicant is an individual, the applicant is not disqualified by reason of the applicant’s immigration status from operating a private hire vehicle; and”
 - (3) After subsection (3) insert –
 - “(3A) In determining for the purposes of subsection (3) whether an applicant is disqualified by reason of the applicant’s immigration status from operating a private hire vehicle, the licensing authority must have regard to any guidance issued by the Secretary of State.” 30
 - (4) In subsection (5) for “A” substitute “Subject to section 3A, a”.
- 18 After section 3 insert – 35
 - “3A London PHV operator’s licences for persons subject to immigration control
 - (1) Subsection (2) applies if –
 - (a) a London PHV operator’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”); 40
 - (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision); and

- (c) apart from subsection (2), the period for which the licence would have been granted would have ended after the end of the leave period.
- (2) The licence must be granted for a period which ends at or before the end of the leave period. 5
- (3) Subsection (4) applies if –
- (a) a London PHV operator’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period; and
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision). 10
- (4) The licence must be granted for a period which does not exceed six months.
- (5) A London PHV operator’s licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from operating a private hire vehicle. 15
- (6) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return it to the licensing authority. 20
- (7) A person who, without reasonable excuse, contravenes subsection (6) is guilty of an offence and liable on summary conviction –
- (a) to a fine not exceeding level 3 on the standard scale; and
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.” 25
- 19 (1) Section 13 (London PHV driver’s licences) is amended as follows.
- (2) In subsection (2) for the “and” at the end of paragraph (a) substitute –
- “(aa) the applicant is not disqualified by reason of the applicant’s immigration status from driving a private hire vehicle; and” 30
- (3) After subsection (2) insert –
- “(2A) In determining for the purposes of subsection (2) whether an applicant is disqualified by reason of the applicant’s immigration status from driving a private hire vehicle, the licensing authority must have regard to any guidance issued by the Secretary of State.” 35
- (4) In subsection (5) at the beginning of paragraph (c) insert “subject to section 13A.”
- 20 After section 13 insert – 40
- “13A London PHV driver’s licences for persons subject to immigration control**
- (1) Subsection (2) applies if –
- (a) a London PHV driver’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”); 45

- (b) the person’s leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision); and
- (c) apart from subsection (2), the period for which the licence would have been granted would have ended after the end of the leave period. 5
- (2) The licence must be granted for a period which ends at or before the end of the leave period.
- (3) Subsection (4) applies if—
- (a) a London PHV driver’s licence is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period; and 10
- (b) the person’s leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision). 15
- (4) The licence must be granted for a period which does not exceed six months.
- (5) A London PHV driver’s licence ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from driving a private hire vehicle. 20
- (6) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return the licence and the person’s driver’s badge to the licensing authority.
- (7) A person who, without reasonable excuse, contravenes subsection (6) is guilty of an offence and liable on summary conviction— 25
- (a) to a fine not exceeding level 3 on the standard scale; and
- (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.” 30
- 21 (1) Section 16 (power to suspend or revoke licences) is amended as follows.
- (2) In subsection (2) before the “or” at the end of paragraph (a) insert—
- “(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;”. 35
- (3) In subsection (4) at the end of paragraph (a) insert—
- “(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;”.
- 22 In section 25 (appeals) after subsection (7) insert— 40
- “(8) On an appeal under this Act to the magistrates’ court or the Crown Court, the court is not entitled to entertain any question as to whether—
- (a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom; or 45

- (b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.
- 23 After section 35 insert— 5
- “35A Persons disqualified by reason of immigration status**
- (1) For the purposes of this Act a person is disqualified by reason of the person’s immigration status from carrying on a licensable activity if the person is subject to immigration control and—
- (a) the person has not been granted leave to enter or remain in the United Kingdom; or 10
- (b) the person’s leave to enter or remain in the United Kingdom—
- (i) is invalid;
- (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise); or 15
- (iii) is subject to a condition preventing the individual from carrying on the licensable activity.
- (2) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 to the Immigration Act 2016— 20
- (a) the person is to be treated for the purposes of this Part 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. 25
- (3) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.
- (4) For the purposes of this section a person carries on a licensable activity if the person— 30
- (a) operates a private hire vehicle; or
- (b) drives a private hire vehicle.
- 35B Immigration offences and immigration penalties**
- (1) In this Act “immigration offence” means— 35
- (a) an offence under any of the Immigration Acts;
- (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence within paragraph (a); or
- (c) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence within paragraph (a). 40
- (2) In this Act “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”). 45

- (3) For the purposes of this Act 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
 (b) the penalty is cancelled by virtue of section 16 or 17 of that Act. 5
- (4) For the purposes of this Act 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—
 (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. 10 15
- (5) For the purposes of this Act 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—
 (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. 20
- (6) For the purposes of this Act 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—
 (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.” 25
- 24 In section 36 (interpretation) at the appropriate place insert—
““operate” has the meaning given in section 1(1);”. 30

SCHEDULE 3

Section 12

ILLEGAL WORKING CLOSURE NOTICES AND ILLEGAL WORKING COMPLIANCE ORDERS

Illegal working closure notices

- 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 (6) are met. 40

- (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. 5
- (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 – 10
- (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.
- (4) Where a person is on immigration bail within the meaning of Part 1 of Schedule 7 – 20
- (a) the person is to be treated for the purposes of sub-paragraph (3) 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. 25
- (5) A person falling within sub-paragraph (3) is referred to in this Schedule as an “illegal worker”. 25
- (6) 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”), 30
 - (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. 35
- (7) Sub-paragraph (6)(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)). 40
- (8) For the purposes of sub-paragraph (6)(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 – 45
 - (i) the person is excused payment by virtue of section 15(3) of that Act, or
 - (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 –
- (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 5
 - (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.
- (9) For the purposes of sub-paragraph (6), a person is a connected person in relation to an employer if – 10
- (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 15
 - (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; 20
 - (c) where the employer is an individual, the person is –
 - (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, 25
 - (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. 30
- (10) 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
- (11) An illegal working closure notice may be issued only if reasonable efforts have been made to inform – 35
- (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.
- (12) Before issuing an illegal working closure notice the immigration officer must ensure that any person the officer thinks appropriate has been consulted. 40
- (13) 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 –
- (a) identify the premises;
 - (b) explain the effect of the notice; 45
 - (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;
 - (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. 5
- (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. 10
- (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.
- (6) An extension notice is a notice which – 15
- (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.

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 – 25
- (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. 30

Service of notices

- 4 (1) A notice under paragraph 1, 2 or 3 must be served by an immigration officer. 35
- (2) The immigration officer must if possible –
- (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, 40
 - (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,
 - (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(11)) that the notice was going to be issued.
- (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. 5
- (4) The immigration officer may enter any premises, using reasonable force if necessary, for the purposes of complying with sub-paragraph (2)(a). 10

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). 15
- (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. 20
- (4) In calculating when the period of 48 hours ends, Christmas Day is to be disregarded.
- (5) The court may make an illegal working compliance order in respect of premises if it is satisfied, on the balance of probabilities – 25
- (a) that the conditions in paragraph 1(3) and (6) 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.
- (6) An illegal working compliance order may – 30
- (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;
- (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; 35
- (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. 40
- (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 –
- (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. 5
- (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.
- (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. 10

Illegal working compliance orders: adjournment of hearing

- 6 (1) This paragraph applies where an application has been made under paragraph 5 for an illegal working compliance order. 15
- (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. 20
- (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. 25
- (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. 30
- (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, 35
- 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. 40
- (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

- 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, 5
 - (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.
- (2) Where an application is made under this paragraph, the court may issue a summons directed to— 10
- (a) an immigration officer,
 - (b) any person on whom the illegal working closure notice was served under paragraph 4, or
 - (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. 15
- (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.
- (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— 25
- (a) to make, extend or vary an illegal working compliance order;
 - (b) not to discharge an illegal working compliance order;
 - (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. 30
- (2) An appeal against a decision—
- (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; 35
 - (c) to vary or discharge an illegal working compliance order;
 - (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.
- (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

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- 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.
- (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.

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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.
- (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—
 - (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;
 - (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.

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Access to other premises

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- 12 (1) Where—
 - (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.
- (2) Notice of an application under this paragraph must be given to—

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-
- (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* 10
- 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.
- (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* 25
- 14 (1) Each of the following –
- (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, 30
- 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.
- (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. 5
- (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.
- (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 – 10
- (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;
 - (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;
 - (d) that having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss. 15
- (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 – 20
- (a) employment;
 - (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 – 30
- (a) persons whom the Secretary of State considers to represent the views of immigration officers and of chief officers of police, and
 - (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. 35

Interpretation

- 17 (1) In this Schedule –
- “court”, except where the context otherwise requires, means – 40
 - (a) in relation to premises in England and Wales or Northern Ireland, the magistrates’ court;
 - (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.
- (2) In this Schedule – 15
- (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~~1971 the person requires leave to enter or remain in the United Kingdom.

Amendment of Licensing Act 2003

- 18 After section 167(1) of the Licensing Act 2003 insert – 20
- “(1A) This section also applies where a court has made an illegal working compliance order under Schedule ~~2~~3 to the Immigration Act 2016 and the relevant licensing authority has accordingly received a notice under that Schedule.”

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SCHEDULE 4

Section ~~18~~19

BANK ACCOUNTS

- 1 The Immigration Act 2014 is amended as follows. 30
- 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.
- (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.
- (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).

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.
- (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.
- (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.

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.
- (5) An application for a freezing order may be made without notice. 40
- (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~~ court; 35
 - (b) the ~~Crown–~~Sheriff Appeal Court, where the decision appealed against is a decision of ~~a magistrates’ court or a court of summary jurisdiction~~ the sheriff;
 - (c) ~~the Sheriff Appeal Court~~ a county court, where the decision appealed against is a decision of a court of ~~the sheriff~~ summary jurisdiction. 40

40F Freezing orders: code of practice

- (1) The Secretary of State must issue a code of practice –
- (a) specifying the factors that the Secretary of State will consider when deciding whether to apply for a freezing order under section 40C(2), 45

- (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
 - (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. 5
- (3) The code (or revised code) –
 - (a) may not be issued unless a draft has been laid before Parliament, and 10
 - (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

- (1) This section applies where – 15
 - (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
 - (c) the bank or building society receives a notification under section 40C(3) or 40D(7) in relation to the disqualified person. 20
- (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; 25
 - (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.
- (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 – 30
 - (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. 35
- (4) Where subsection (3) applies, closure of the account may be delayed for such period as is reasonable (but not indefinitely). 40
- (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). 45

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- (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.
- (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. 10
- (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) In subsection (9) “prescribed” means prescribed in regulations made by the Treasury. 15
- 40H Sections 40A to 40G: interpretation**
- (1) This section applies for the purposes of sections 40A to 40G.
- (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). 20
- (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).”
- 3 (1) Section 41 (regulation by Financial Conduct Authority) is amended as follows. 25
- (2) In subsection (1), at the end insert “and the requirements imposed on them by sections 40A, 40B and 40G”.
- (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”. 30
- 5 (1) Section 43 (power to amend) is amended as follows.
- (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”. 35
- 6 In section 74 (orders and regulations), in subsection (2) (statutory instruments to which the affirmative resolution procedure applies), after paragraph (b) insert –
- “(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.
- (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.”

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SCHEDULE 5

Section ~~27~~28

AMENDMENTS TO SEARCH WARRANT PROVISIONS

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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) –
- (a) in paragraph (b) for “specified in the application” substitute “mentioned in subsection (1A2A)”, 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 –
- “(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”)~~ application, 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”).
- (1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied –
- (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
- (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.

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- (1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.”
- (4) In subsection (2) after “conditions” insert “referred to in subsection (1)(e)”.
- (5) In subsection (7) –
- (a) for “subsection (1)” substitute “this section”, 5
 - (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)”.
- 3 (1) Section 28FB (search for personnel records with warrant) is amended as follows. 10
- (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.” 15
- (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”)~~ application, or 20
 - (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”).
- (1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied – 25
- (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 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) 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) – 45

- (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 5
- (b) for paragraph (b) substitute –
- “(b) specify the matters set out in subsection (2A) below; and”. 10
- (3) After subsection (2) insert –
- “(2A) The matters which must be specified pursuant to subsection (2)(b) 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; 15
- (b) if the application relates to any premises occupied or 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; 20
- (ii) the person who is in occupation or control of those premises and any others which it is desired to enter and search; 20
- (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 premises which it is desired to enter and search.” 25
- (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 whether the number of entries authorised is unlimited, or limited to a specified maximum.” 30
- (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 the person’s occupation or control which can be specified and which are to be searched; and”. 35
- (7) For subsection (9) substitute –
- “(9) Two copies must be made of a warrant which specifies only one set 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.” 40

(8) After subsection (10) insert –

“(10A) “All premises warrant” means a warrant issued in response to an application of the kind mentioned in section [24E\(6\)\(b\)](#), 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 [24E\(8\)](#), 28D(1C) or 28FB(1C) or paragraph 25A(6AC) of Schedule 2.”

5 (1) Section 28K (execution of warrants) is amended as follows.

(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 or detention of anything to which the warrant relates.

(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.

(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.”

(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.

(8B) ~~A~~ Subject to subsection (8C), 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.”

(8C) Subsection (8B) does not apply to a warrant issued by a justice of the peace in Scotland or by the sheriff if the warrant has been executed.”

(7) In subsection (9) for the words from “A warrant” to “its execution,” substitute “The warrant”.

- (8) After subsection (13) insert –
- “(13A) In subsection (8B) –
- “specific premises warrant” means a warrant which is not an all premises warrant;
- “all premises warrant” means a warrant issued in response to an application of the kind mentioned in section 24E(6)(b), 28D(1A)(b) or 28FB(1A)(b) or paragraph 25A(6AA)(b) of Schedule 2. 5
- (13B) The reference in subsection (8B) to a warrant authorising multiple entries is to a warrant of the kind mentioned in section 24E(8), 28D(1C) or 28FB(1C) or paragraph 25A(6AC) of Schedule 2.” 10
- 6 (1) Paragraph 25A of Schedule 2 (search of premises for nationality documents) is amended as follows.
- (2) In sub-paragraph (6A) – 15
- (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.”
- (3) After sub-paragraph (~~26A~~) insert – 20
- “(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”)~~ application, 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”). 25
- (6AB) 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 relevant documents, 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.
- (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. 35
- (6AD) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.” 40
- (4) In sub-paragraph (6B) after “conditions” insert “mentioned in sub-paragraph (6A)(b)”.
- (5) In sub-paragraph (6C) for “sub-paragraph (6A)” substitute “sub-paragraphs (6A) to (6AC)”. 45

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. 5
- (2) In subsection (2) –
- (a) in paragraph (b) for “specified in the application” substitute “mentioned in subsection (1A2A)”, and
- (b) at the end of paragraph (d) insert “in relation to each set of premises specified in the application.”
- (3) After subsection (2) insert – 10
- “(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”)~~ application, 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”). 15
- (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
- (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. 20
- (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.
- (2D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.” 25
- (4) In subsection (3) after “conditions” insert “mentioned in subsection (2)(d)”.

SCHEDULE 6

[Section 29](#)

[DUTY TO SUPPLY NATIONALITY DOCUMENTS TO SECRETARY OF STATE: PERSONS TO WHOM DUTY APPLIES](#) 30

1 [This is the new Schedule A1 to the Immigration and Asylum Act 1999](#)

referred to in section 29 –

“SCHEDULE A1

Section 20APERSONS TO WHOM SECTION 20A APPLIESLaw enforcement

- | | | |
|---|--|----|
| 1 | <u>The chief officer of police for a police area in England and Wales.</u> | |
| 2 | <u>The chief constable of the Police Service of Scotland.</u> | |
| 3 | <u>The Chief Constable of the Police Service of Northern Ireland.</u> | |
| 4 | <u>The Chief Constable of the British Transport Police Force.</u> | |
| 5 | <u>A Port Police Force established under an order made under section 14 of the Harbours Act 1964.</u> | 10 |
| 6 | <u>The Port Police Force established under Part 10 of the Port of London Act 1968.</u> | |
| 7 | <u>A Port Police Force established under section 79 of the Harbours, Docks and Piers Clauses Act 1847.</u> | |
| 8 | <u>The National Crime Agency.</u> | 15 |

Local government

- | | | |
|----|---|----|
| 9 | <u>A county council or district council in England.</u> | |
| 10 | <u>A London borough council.</u> | 20 |
| 11 | <u>The Greater London Authority.</u> | |
| 12 | <u>The Common Council of the City of London in its capacity as a local authority.</u> | |
| 13 | <u>The Council of the Isles of Scilly.</u> | |
| 14 | <u>A county council or a county borough council in Wales.</u> | 25 |
| 15 | <u>A council constituted under section 2 of the Local Government etc (Scotland) Act 1994.</u> | |
| 16 | <u>A district council in Northern Ireland.</u> | |

Regulatory bodies

- | | | |
|----|---|----|
| 17 | <u>The Gangmasters Licensing Authority.</u> | 30 |
| 18 | <u>The Security Industry Authority.</u> | |

Health bodies

- | | | |
|----|---|----|
| 19 | <u>An NHS trust established under section 25 of the National Health Service Act 2006 or under section 18 of the National Health Service (Wales) Act 2006.</u> | 35 |
| 20 | <u>An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006.</u> | |

- 21 [A Local Health Board established under section 11 of the National Health Service \(Wales\) Act 2006.](#)
- 22 [A National Health Service Trust established under section 12A of the National Health Service \(Scotland\) Act 1978.](#)
- 23 [A Health and Social Care trust established under Article 10 of the Health and Personal Social Services \(Northern Ireland\) Order 1991 \(SI 1991/194 \(NI 1\)\).](#)

Registration officials

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- 24 [The Registrar General for England and Wales.](#)
- 25 [A superintendent registrar of births, deaths and marriages.](#)
- 26 [A registrar of births, deaths and marriages.](#)
- 27 [A civil partnership registrar within the meaning of Chapter 1 of Part 2 of the Civil Partnership Act 2004 \(see section 29 of that Act\).](#)
- 28 [The Registrar General for Scotland.](#)
- 29 [A district registrar within the meaning of section 7 of the Registration of Births, Deaths and Marriages \(Scotland\) Act 1965.](#)
- 30 [A senior registrar within the meaning of that section.](#)
- 31 [An assistant registrar within the meaning of that section.](#)
- 32 [The Registrar General for Northern Ireland.](#)
- 33 [A person appointed under Article 31\(1\) or \(3\) of the Marriage \(Northern Ireland\) Order 2003 \(SI 2003/413 \(NI 3\)\).](#)
- 34 [A person appointed under section 152\(1\) or \(3\) of the Civil Partnership Act 2004.](#)

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Other bodies: Northern Ireland

- 35 [The Northern Ireland Housing Executive.”](#)

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SCHEDULE 7

Section ~~29~~³²

IMMIGRATION BAIL

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PART 1

MAIN PROVISIONS

Power to grant immigration bail

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- 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),

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-
- (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
- (d) the person is being detained under section 36(1) of the UK Borders Act 2007 (detention pending deportation). 5
- (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).
- (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 – 10
- (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, 15
- (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.
- (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(12) or (13) (release following arrest for breach of bail conditions). 20
- (5) A person may be granted and remain on immigration bail even if the person can no longer be detained, if –
- (a) the person is liable to detention under a provision mentioned in sub-paragraph (1), or 25
- (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.
- (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). 30
- (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.
- (8) A grant of immigration bail to a person ends when – 35
- (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,
- (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. 40
- (9) This paragraph is subject to paragraph 3 (exercise of power to grant immigration bail).

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; 5
 - (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; 10
 - (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). 15
- (3) Sub-paragraph (4) applies if the First-tier Tribunal grants immigration bail to a person but –
- (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. 20
- (4) The Secretary of State may impose such a condition on the person.
- (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. 25
- (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.

Exercise of power to grant immigration bail 30

- 3 (1) The Secretary of State or the First-tier Tribunal must have regard to the matters listed in sub-paragraph (2) in determining –
- (a) whether to grant immigration bail to a person, and
 - (b) the conditions to which a person’s immigration bail is to be subject. 35
- (2) Those matters are –
- (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, 40
 - (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,
 - (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.
- (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. 5
- (4) A person must not be granted immigration bail by the First-tier Tribunal without the consent of the Secretary of State if –
- (a) directions for the removal of the person from the United Kingdom are for the time being in force, and 10
- (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.
- (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. 15
- (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.
- (7) Where the decision is to grant immigration bail, a notice under sub-paragraph (5) or (6) must state – 20
- (a) when the grant of immigration bail commences, and
- (b) the bail conditions.
- (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. 25

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 – 30
- (a) P’s location at specified times, during specified periods of time or while the arrangements are in place;
- (b) P’s presence in a location at specified times, during specified periods of time or while the arrangements are in place; 35
- (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 –
- (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; 40
- (d) involve the exercise of functions by persons other than the Secretary of State or the First-tier Tribunal.
- (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
 - (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
- (5) An electronic monitoring condition may not be imposed on a person unless the person is at least 18 years old.

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. 10
- (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. 15
- (3) The financial condition must specify –
- (a) the sum of money required to be paid,
 - (b) when it is to be paid, and 20
 - (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. 25
- (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.
- (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. 30
- (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. 35
- (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 –
- (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; 40
 - (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. 45

Power to vary bail conditions

- 6 (1) Where person is on immigration bail –
- (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. 5
- (2) The power in sub-paragraph (1) is exercisable by the person who granted the immigration bail, subject to sub-paragraphs (3) and (4).
- (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. 10
- (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. 15
- (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. 20
- (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.
- (8) If the First-tier Tribunal exercises the power in sub-paragraph (1) in relation to a person so as 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. 25
- (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. 30

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 – 35
- (a) the address is not one proposed by the person on immigration bail, or
- (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. 40
- (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.

- (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.
- (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. 5

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 – 10
- (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 on any premises. 15
- (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. 20
- (4) [Sections 28J and 28K of the Immigration Act 1971 \(warrants: application and execution\) apply, with any necessary modifications, to warrants under sub-paragraph \(3\).](#)
- (5) Sub-paragraph (6) applies where – 25
- (a) a warrant under this paragraph is issued for the purposes of the arrest of a 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.
- (6) A detainee custody officer may enter the premises, if need be by reasonable force, for the purpose of carrying out a search. 30
- (7) In sub-paragraph (6) –
- “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
 - “search” means a search under paragraph 2(1)(a) of Schedule 13 to that Act (escort arrangements: power to search detained person). 35
- (8) 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. 40
- (9) 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
 - (b) may be detained under the authority of the Secretary of State in the meantime. 45

- (10) 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
 - (b) otherwise, the First-tier Tribunal.
- (11) 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.
- (12) 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
 - (b) grant the person bail subject to the same or different conditions.
- (13) 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).
- (14) In this paragraph –
- “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” –
 - (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)).

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.
- (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 –
- (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).

- (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~~56(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. 5
- (2) This sub-paragraph applies to a person who, at the specified time, was not in detention on the basis that –
- (a) the person had been temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the Immigration Act 1971, 10
 - (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,
 - (d) the person was liable to be detained under paragraph 2(2) or (3) of the Schedule but was not so detained, 15
 - (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.
- (3) In this paragraph “specified” means specified in regulations under section 56(1). 20

PART 2

AMENDMENTS TO OTHER ACTS

Immigration Act 1971 (c. 77) 25

- 11 The Immigration Act 1971 is amended as follows.
- 12 (1) Section 24 (illegal entry and other similar offences) is amended as follows.
- (2) In subsection (1) – 30
- (a) omit paragraph (e), and
 - (b) at the end of paragraph (g) insert “; 35
 - (h) if the person is on immigration bail within the meaning of Schedule ~~5~~7 to the Immigration Act 2016 and, without reasonable excuse, the person breaches a bail condition within the meaning of that Schedule.”
- (3) In subsection (3) for “28” substitute “28(1)”.
- (4) After that subsection insert – 40
- “(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)”.
- (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 –
- 5
- (a) an information relating to the offence may in England and Wales be tried by a magistrates’ court if it is laid –
- (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 ~~5–7~~ [to the Immigration Act 2016](#) (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i),
- 10
- (b) summary proceedings for the offence may in Scotland be commenced –
- (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 ~~5–7~~ [to the Immigration Act 2016](#) (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i), and
- 15
- (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 ~~5–7~~ [to the Immigration Act 2016](#) (arrest for breach of bail condition), if that period expires after the end of the period mentioned in sub-paragraph (i).”
- 20
- 25
- 30
- (4) In subsection (2) for “subsection (1)(b)” substitute “subsections (1)(b) and (1A)(b)”.
- 35
- 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)”.
- 40
- 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.
- 45
- (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 ~~5-7~~ to the Immigration Act 2016.”, 5
 - (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 ~~5-7~~ to the Immigration Act 2016.”, and 10
 - (d) for sub-paragraphs (4A) to (6) substitute –
 - “(5) The provisions of Schedule ~~5-7~~ 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). 15
 - (6) If the court grants bail to a person under sub-paragraph (1) or (1A), Schedule ~~5-7~~ 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.” 20
- (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.
- 19 In section 3(1) (jurisdiction: bail) for “Schedule 2 to the Immigration Act 1971” substitute “Schedule ~~5-7~~ to the Immigration Act 2016”. 25
- 20 (1) Section 5 (procedure in relation to jurisdiction under sections 2 and 3) is amended as follows.
- (2) In subsection (4)(a) for “Part II of Schedule 2 to the Immigration Act 1971” substitute “Schedule ~~5-7~~ to the Immigration Act 2016”. 30
 - (3) In subsection (5) for “paragraphs 22 to 24 of Schedule 2 to the Immigration Act 1971” substitute “Schedule ~~5-7~~ to the Immigration Act 2016”.
 - (4) In subsection (5A) – 35
 - (a) for “bail under paragraph 22 or 29 of Schedule 2 to the Immigration Act 1971” substitute “immigration bail under Schedule ~~5-7~~ to the Immigration Act 2016”, and
 - (b) for “bail” in the second place it appears substitute “immigration bail”. 40

21 For Schedule 3 substitute –

“SCHEDULE 3

Section 3

BAIL: MODIFICATIONS OF SCHEDULE ~~5-7~~ TO THE IMMIGRATION ACT 2016

- | | | |
|---|---|----|
| 1 | Paragraph 1(3) (power to grant bail) has effect as if – | 5 |
| | (a) for “The First-tier Tribunal” there were substituted “The Special Immigration Appeals Commission”, and | |
| | (b) for “the Tribunal” there were substituted “the Commission”. | |
| 2 | Paragraph 2 (conditions of immigration bail) has effect as if – | 10 |
| | (a) in sub-paragraphs (21)(a), (3) and (5) 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”. | |
| 3 | Paragraph 3 (exercise of power to grant immigration bail) has effect as if – | 15 |
| | (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”. | |
| 4 | <u>Paragraph 4(2)(d) (arrangements under electronic monitoring condition) has effect as if for “the First-tier Tribunal” there were substituted “the Special Immigration Appeals Commission”.</u> | 20 |
| 5 | <u>Paragraph 5(5) (payment of sum under financial condition) has effect as if for “the First-tier Tribunal” there were substituted “the Special Immigration Appeals Commission”.</u> | |
| 6 | Paragraph 6 (power to vary bail conditions) has effect as if – | 25 |
| | (a) in sub-paragraphs (3), (54), (6), (7), (8) and (89) for “the First-tier Tribunal” there were substituted “the Special Immigration Appeals Commission”, and | |
| | (b) in sub-paragraphs (3), (54), (6) and (910) for “the Tribunal” there were substituted “the Commission”. | |
| 7 | 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”. | 30 |

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

- | | | |
|----|--|----|
| 22 | The Nationality, Immigration and Asylum Act 2002 is amended as follows. | 35 |
| 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). | 40 |

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

- 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)

5

- 26 In section 24 of the Immigration, Asylum and Nationality Act 2006 (temporary admission) –
- (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 ~~5–7~~ 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”.

UK Borders Act 2007 (c. 30)

10

- 27 (1) Section 36 of the UK Borders Act 2007 (detention) is amended as follows.

(2) ~~In subsection (2) –~~

- (a) ~~after “unless” insert “(a)”, and~~
- (b) ~~at the end of paragraph (a) insert “, or~~

(3) In subsection (2) for the words from “unless” to the end of the subsection substitute “the person is granted immigration bail under Schedule ~~5–7~~ to the Immigration Act 2016.”

15

(4) In subsection (3) for “direct release” substitute “release a person on bail”.

(5) After subsection (3) insert –

20

“(3A) The provisions of Schedule ~~5–7~~ 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 ~~5–7~~ 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.”

25

(6) In subsection (4) omit “(including provisions about bail)”.

30

(7) Omit subsection (5).

35

40

SCHEDULE 8

Section [3437](#)

SUPPORT FOR CERTAIN CATEGORIES OF MIGRANT

PART 1

5

AMENDMENTS OF THE IMMIGRATION ACTS

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. 10
- 2 In consequence of the repeal made by paragraph 1 –
- (a) in section 26A of the Immigration Act 1971, omit subsection (1)(b)(ii);
 - (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)); 15
 - (iii) section 23A(5A) of the Rent (Scotland) Act 1984;
 - (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; 20
 - (c) in section 99 of the Immigration and Asylum Act 1999, in subsections (1) and (4), omit “4,”;
 - (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”; 25
 - (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), 30
 - (ii) in section 26, in subsection (3), omit “4,”,
 - (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; 35
 - (i) in the Immigration, Asylum and Nationality Act 2006, omit section 43(1)(b), (2), (5), (6) 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); 40
 - (k) in Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, in paragraph 31(1)(a), omit “4 or”.

45

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.
- (2) In subsection (1) –
- (a) for the definition of “asylum-seeker” substitute – 5
““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 – 10
““further qualifying submissions” has the meaning given by subsection (2C);”;
 - (d) after the definition of “Northern Ireland authority” insert – 15
““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 –
- (a) the person is at least 18 years old, 20
 - (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 – 25
- (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 – 30
 - (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 35
 - (b) the submissions fall to be considered by the Secretary of State under paragraph 353 of the immigration rules.” 40
- (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 – 45
- (a) at the end of a prescribed period beginning with the relevant day (see subsection (3B)), or

- (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 –
- (a) accepted, 5
 - (b) rejected without being treated as a fresh protection claim, or
 - (c) treated as a fresh protection claim.
- (3C) If –
- (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, 10
- the person is to be treated as an asylum-seeker for the purposes of this Part during the review period (see subsection (3D)).
- (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 15
 - (b) ending with –
 - (i) a prescribed period beginning with the day on which the judicial review is disposed of, or 20
 - (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)”.
- 4 In consequence of the repeal made by paragraph 3(2)(b) – 25
- (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) –
 - (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””; 30
 - (c) in section 167 of that Act (interpretation), in subsection (1), in the definition of “claim for asylum”, for “Parts V and ~~VI~~ and section 141” 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”; 35
 - (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* 40
- 5 Part 6 of the Immigration and Asylum Act 1999 (support for asylum-seekers) is amended as follows.
- 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”; 5
 - (b) after the definition of “the Executive” insert –
““failed asylum-seeker” has the meaning given by subsection (2D);”; 10
 - (c) for the definition of “supported person” substitute –
““supported person” means – 10
 - (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
 - (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.” 15
- (3) In subsection (2), after “section 95” insert “or 95A”. 20
- (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 –
- (a) the person is at least 18 years old,
 - (b) the person – 25
 - (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
 - (d) the person is not an asylum-seeker.” 30
- (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 – 35
- “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 – 40
- (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 is likely to become destitute within such period as may be prescribed, and 45

-
- (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. 5
- (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. 10
- (4) The Secretary of State may make regulations prescribing other criteria to be used in determining –
- (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. 15
- (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. 20
- (6) A condition imposed by regulations under subsection (5)(a) may, in particular, relate to any of the following –
- (a) any matter relating to the use of the support provided; 25
 - (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. 30
- (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) – 35
- (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 –
 - (i) appoint one person to supervise or manage the performance of, or participation in, activities by another person; 40
 - (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 45

- activities in accordance with arrangements under this section.
- (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 – 5
- (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.
- (10) A local authority or other person may undertake to manage or participate in arrangements for community activities in accordance with this section. 10
- (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). 15
- (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.”
- 10 (1) Section 96 (ways in which support may be provided) is amended as follows.
- (2) In subsection (1) – 20
- (a) after “section 95” insert “or 95A”;
 - (b) in paragraph (c), for “the asylum-seeker” substitute “an asylum-seeker”;
 - (c) in paragraph (d) – 25
 - (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) –
 - (i) for “the asylum-seeker” substitute “an asylum-seeker”, and
 - (ii) after “dependants” insert “, or a failed asylum-seeker and his dependants,”. 30
- (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).”
- (4) In subsection (2), after “section 95” insert “or 95A”. 35
- 11 (1) Section 97 (supplemental) is amended as follows.
- (2) In subsection (1) –
- (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,”. 40
- (3) In subsections (4), (5) and (7), after “section 95” insert “or 95A”.

- (4) After subsection (7) insert—
- “(8) A tenancy is not a Scottish secure tenancy (within the meaning of the Housing (Scotland) Act 2001 (asp 10)) if it is granted in order to provide accommodation under section 95A.
- (9) A tenancy which would be a Scottish secure tenancy but for subsection (8) becomes a Scottish secure tenancy if the landlord notifies the tenant that it is to be regarded as such.”
- 12 In section 98, the heading becomes “**Temporary support for asylum-seekers, etc**”.
- 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—
- (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.
- (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.”
- 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)”.
- (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”.
- 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”.
- 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”. 5
- 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”. 10
- (4) In subsections (3) and (4), after “section 95” insert “or 95A”.
- (5) In subsection (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”. 15
- 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”.
- (3) In subsection (2) – 20
- (a) in paragraph (b), at the beginning insert “in the case of accommodation provided under section 95 or 98,”;
- (b) after that paragraph insert –
- “(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,”. 25
- 23 In section 127 (requirement to supply information about redirection of post), in subsection (1)(c), after “asylum-seekers” insert “or failed asylum-seekers”.
- 24 In section 26A of the Immigration Act 1971 (registration card), in subsection (1)(b), after sub-paragraph (i) insert – 30
- “(ia) a claim for support under section 95A of the Immigration and Asylum Act 1999 (whether or not made by that person).”
- 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). 35
- (3) In section 26 (withdrawal of support), in subsection (3) –
- (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”. 40
- (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**”.
- (6) In section 51 (choice of form of support), in subsection (2), omit the “and” after paragraph (b) and after paragraph (c) insert “, and” 5
 (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 – 10
 “(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”.
- 26 In section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (failed asylum-seekers: withdrawal of support) – 15
 (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.~~
 (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)”;~~ 20
 (b) ~~in subsection (6), for “subsection (4)” substitute “subsection (5)”.~~
- 28 ~~Omit~~ In the Immigration, Asylum and Nationality Act 2006, omit section 44 (power to repeal paragraph 7A of Schedule 3 to the Nationality, Immigration and Asylum Act 2002). 25
- 29 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”.

Accommodation centres: definition of “asylum-seeker” etc

- 30 (1) Section 18 of the Nationality, Immigration and Asylum Act 2002 (definition of asylum-seeker for purposes of Part 2) is amended as follows. 30
- (2) For subsection (1) substitute –
- “(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 – 35
 (i) has been recorded by the Secretary of State, but
 (ii) has not been determined.
- (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 40

Immigration and Asylum Act 1999 by virtue of section 94(2B) or (3C)
of that Act.”

- (3) For subsection (3) substitute –
- “(3) “Protection claim” has the meaning given by section 82(2).” 5
- 31 (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””. 10
- 32 In consequence of the amendments made by paragraph 29, the Nationality, Immigration and Asylum Act 2002 is amended as follows.
- 33 In section 16 (establishment of accommodation centres), in subsection (3)(b), for “claims for asylum” substitute “protection claims”.
- 34 In section 21(3), for “claim for asylum” substitute “protection claim”. 15
- 35 In section 29 (facilities), in subsection (1)(c), for “claim for asylum” substitute “protection claim”.
- 36 (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”. 20
- (3) In subsection (9), for ““claim for asylum”” substitute ““protection claim””.
- (4) The heading of the section becomes “**Late protection claim: refusal of support**”.
- 37 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”. 25
- 38 (1) Section 71 (asylum-seeker: residence, etc restriction) is amended as follows.
- (2) In subsection (1)(a), for “claim for asylum” substitute “protection claim”. 30
- (3) In subsection (5), for ““claim for asylum”” substitute ““protection claim””.
- 39 In Schedule 3 (withholding and withdrawal of support), in paragraph 17(1), for the definition of “asylum-seeker” substitute –
- ““asylum-seeker” has the meaning given by section 18,”. 35

Repeal of uncommenced provisions

- 40 The following provisions of the Nationality, Immigration and Asylum Act 2002, which contain amendments that have never been brought into force, are repealed – 40
- (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). 45

- 41 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 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.”
- 42 In Schedule 3 to the National Health Service (Consequential Provisions) Act 2006, omit paragraph 9.
- 43 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.”
- 44 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.”

PART 2

TRANSITIONAL AND SAVING PROVISION

- 45 (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,
- (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, ~~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, ~~and~~
- (d) any dependant of a person within paragraph (a), (b) or (c).
- 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.
- (3) On and after the day on which paragraphs 1 and 2 come into force, section 4 of the Immigration and Asylum Act 1999 has effect in relation to persons

within sub-paragraph (1) as if in subsection (11)(b) the word “not” were omitted.

(4) In this paragraph “dependant” has the same meaning as in Part 6 of the Immigration and Asylum Act 1999 (see section 94 of that Act).

46 (1) The repeal made by paragraph 7(5) does not apply in relation to— 5

(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, 10

(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~~

(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, ~~and~~ 15

(d) any dependant of a person within paragraph (a), (b) or (c).

(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. 20

(3) In this paragraph “dependant” has the same meaning as in Part 6 of the Immigration and Asylum Act 1999 (see section 94 of that Act).

47 Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) has effect as if— 25

(a) after paragraph ~~7A~~7B there were inserted—

“~~Sixth~~Seventh class of ineligible person: transitional cases

7C (1) Paragraph 1 applies to a person if—

(a) the person is a transitionally-supported person (see sub-paragraph (3)), 30

(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—

(i) to leave the United Kingdom voluntarily, or 35

(ii) to place himself in a position in which he is able to leave the United Kingdom voluntarily,

(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. 40

- (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—
- (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 ~~6-8~~ to the Immigration Act 2016, or
- (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 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-7C~~ treated as inserted by this Schedule.

SCHEDULE 9

Section ~~35~~³⁸

AVAILABILITY OF LOCAL AUTHORITY SUPPORT

- 1 Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) is amended as follows. 30
- 2 (1) Paragraph 1 (ineligibility for support) is amended as follows.
- (2) In sub-paragraph (1) (excluded support or assistance) after paragraph (g) insert—
- “(ga) in relation only to a person to whom this paragraph applies by virtue of paragraph 7B—
- (i) section 23CZA of that Act (arrangements for certain former relevant children to continue to live with former foster parents), or
- (ii) regulations under section 23D of that Act (personal advisers).”. 40
- (3) After sub-paragraph (2) insert—
- “(2A) In the case of the provisions referred to in sub-paragraph (1)(ga), sub-paragraph (2) applies only in relation to a person to whom this paragraph applies by virtue of paragraph 7B.”
- 3 (1) Paragraph 2(1) (exceptions) is amended as follows. 45
- (2) In paragraph (c) for “or 10” substitute “, 10, 10A or 10B”.

- (3) After the “or” at the end of paragraph (c) insert –
 “(ca) under section 95A or 98A of the Immigration and Asylum Act 1999 (support for failed asylum-seekers etc), or”.
- 4 After paragraph 3 insert –
- “3A Notwithstanding paragraph 3, paragraph 1(1)(g) prevents a local authority in England from providing support or assistance under section 17 of the Children Act 1989 to a person in respect of a child if – 5
 (a) the support or assistance is of a type that could be provided to the person by virtue of paragraph 10A (see paragraph 10A(7)), and 10
 (b) support is being provided to the person by virtue of paragraph 10A or there are reasonable grounds for believing that support will be provided to the person by virtue of that paragraph.
- 3B Notwithstanding paragraph 3, paragraph 1(1)(g) prevents a local authority in England from providing support or assistance under section 23C, 23CA, 24A or 24B of the Children Act 1989 to a person if – 15
 (a) support is being provided to the person by virtue of paragraph 10B or section 95A of the Immigration and Asylum Act 1999, or 20
 (b) there are reasonable grounds for believing that support will be provided to the person by virtue of that paragraph or section.
- 3C Notwithstanding paragraph 3, paragraph 1(1)(ga) prevents a local authority in England from providing support or assistance under a provision mentioned in paragraph (ga) to a person if – 25
 (a) support is being provided to the person by virtue of paragraph 10B or section 95A of the Immigration and Asylum Act 1999, or
 (b) there are reasonable grounds for believing that support will be provided to the person by virtue of that paragraph or section.” 30
- 5 In paragraph 6 (third class of ineligible person: failed asylum-seeker), in sub-paragraph (1), in the words before sub-paragraph (a), after “person” insert “in Wales, Scotland or Northern Ireland”.
- 6 In paragraph 7 (fourth class of ineligible person: person unlawfully in United Kingdom), in the words before sub-paragraph (a), after “person” insert “in Wales, Scotland or Northern Ireland”. 35
- 7 Before paragraph 8 insert –
- “Sixth class of ineligible person: person in England without leave to enter or remain 40
- 7B (1) Paragraph 1 applies to a person in England if –
 (a) under the Immigration Act 1971, he requires leave to enter or remain in the United Kingdom but does not have it, and
 (b) he is not an asylum-seeker. 45

- (2) Paragraph 1 also applies to a dependant of a person to whom that paragraph applies by virtue of sub-paragraph (1)."

8 After paragraph 10 insert –

"Accommodation and subsistence etc: England

5

- 10A (1) The Secretary of State may make regulations providing for arrangements to be made for support to be provided to a person to whom paragraph 1 applies by virtue of paragraph 7B(1) and –

- (a) who is destitute,
 (b) who has with him a dependent child,
 (c) to whom section 95A of the Immigration and Asylum Act 1999 does not apply, and
 (d) in relation to whom condition A, B, C or D is satisfied.

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- (2) Condition A is that –

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- (a) the person has made an application for leave to enter or remain in the United Kingdom and has not withdrawn the application,
 (b) where regulations under this paragraph require that the application must be of a kind specified in the regulations for this condition to be satisfied, the application is of that kind, and
 (c) the application has not been determined.

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- (3) Condition B is that –

- (a) the person has appealed under section 82(1), and
 (b) the appeal is pending within the meaning of section 104.

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- (4) Condition C is that –

- (a) the person's appeal rights are exhausted, and
 (b) he has not failed to cooperate with arrangements that would enable him to leave the United Kingdom.

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- (5) Condition D is that the provision of support is necessary to safeguard and promote the welfare of a dependent child.

- (6) Arrangements for a person by virtue of this paragraph may include arrangements for a dependant.

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- (7) The support that may be provided under arrangements by virtue of this paragraph may take the form of –

- (a) accommodation;
 (b) subsistence in kind, or cash or vouchers to pay for subsistence.

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- (8) Subsections (3) to (8) of section 95 of the Immigration and Asylum Act 1999 (meaning of "destitute") apply for the purposes of this paragraph as they apply for the purposes of that section.

- (9) For the purposes of sub-paragraph (2) regulations under this paragraph may provide for circumstances in which –

- (a) a person is to be treated as having made an application for leave to enter or remain in the United Kingdom (despite not having made one);

45

- (b) a person is to be treated as not having made such an application where the Secretary of State is satisfied that the application made is vexatious or wholly without merit.
- (10) For the purposes of sub-paragraph (4) a person’s appeal rights are exhausted at the time when – 5
 - (a) he could not bring an appeal under section 82 (ignoring any possibility of an appeal out of time with permission), and
 - (b) no appeal brought by him is pending within the meaning of section 104. 10
- 10B (1) The Secretary of State may make regulations providing for arrangements to be made for support to be provided to a person to whom paragraph 1 applies by virtue of paragraph 7B(1) and –
 - (a) who is a former relevant child within the meaning of section 23C of the Children Act 1989, 15
 - (b) to whom section 95A of the Immigration and Asylum Act 1999 does not apply, and
 - (c) in relation to whom condition A, B or C is satisfied.
- (2) Condition A is that –
 - (a) the person is destitute,
 - (b) the person has made an application for leave to enter or remain in the United Kingdom and has not withdrawn the application, 20
 - (c) where regulations under this paragraph require that the application must be of a kind specified in the regulations for this condition to be satisfied, the application is of that kind, and
 - (d) the application has not been determined.
- (3) Condition B is that –
 - (a) the person is destitute,
 - (b) the person has appealed under section 82(1), and 25
 - (c) the appeal is pending within the meaning of section 104.
- (4) Condition C is that –
 - (a) the person’s appeal rights are exhausted, and
 - (b) a person specified in regulations under this paragraph is satisfied that support needs to be provided to the person. 30
- (5) The support that may be provided under arrangements by virtue of this paragraph may, in particular, take the form of –
 - (a) accommodation;
 - (b) subsistence in kind, or cash or vouchers to pay for subsistence. 35
- (6) Subsections (3) to (8) of section 95 of the Immigration and Asylum Act 1999 (meaning of “destitute”) apply for the purposes of this paragraph as they apply for the purposes of that section.
- (7) For the purposes of sub-paragraph (2) regulations under this paragraph may provide for circumstances in which – 40

- (a) a person is to be treated as having made an application for leave to enter or remain in the United Kingdom (despite not having made one);
- (b) a person is to be treated as not having made such an application where the Secretary of State is satisfied that the application made is vexatious or wholly without merit. 5
- (8) For the purposes of sub-paragraph (4) a person’s appeal rights are exhausted at the time when –
- (a) he could not bring an appeal under section 82 (ignoring any possibility of an appeal out of time with permission), and 10
- (b) no appeal brought by him is pending within the meaning of section 104.”
- 9 In paragraph 11 (assistance and accommodation: general), in the words before sub-paragraph (a), for “or 10” substitute “, 10, 10A or 10B”. 15
- 10 In paragraph 13 (offences), in sub-paragraphs (1)(b) and (2)(a), for “or 10” substitute “, 10, 10A or 10B”.
- 11 In paragraph 14 (information), in sub-paragraphs (1) and (2), for “or 7” (as substituted by paragraph 25(8)(b) of Schedule 8) substitute “, 7 or 7B”. 20

SCHEDULE 10

Section 39

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~~39(2) – 25

“PART 1A

PENALTY FOR BREACH OF PARAGRAPH 26(2) OR (3) 30

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 – 35
- (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.
- (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 – 40
- (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
- (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 –
 - (a) designating a control area in the airport, and
 - (b) specifying conditions or restrictions to be observed in the control area.5
- (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. 10
- (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. 15

Codes of practice

- 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.20
- (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.25
- (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. 30
- (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.35
- (5) Before issuing a code under this paragraph the Secretary of State must lay the code before Parliament. 40
- (6) A code under this paragraph comes into force in accordance with provision made by regulations made by the Secretary of State.
- (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. 45

- (8) References in sub-paragraphs (5) and (6) to a code include a revised code.

Penalty notices

- 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. 5
- (2) A notice under sub-paragraph (1) (a “penalty notice”) must –
- (a) be in writing, 10
 - (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, 15
 - (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 20
 - (h) include an explanation of the steps the Secretary of State may take to recover any unpaid penalty.

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. 25
- (2) A notice of objection must –
- (a) be in writing,
 - (b) give the reasons for the objection, 30
 - (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.
- (3) Where the Secretary of State receives a notice of objection, the Secretary of State must consider it and – 35
- (a) cancel the penalty,
 - (b) reduce the penalty,
 - (c) increase the penalty, or 40
 - (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.
- (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 45

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.

- (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 – 5
- (a) state the amount of the penalty following the Secretary of State’s consideration of the notice of objection,
 - (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, 10
 - (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. 15

Appeals

- 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. 20
- (2) An appeal may be brought only if the appellant has given a notice of objection and the Secretary of State has –
- (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). 25
- (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). 30
- (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. 35
- (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). 40
- (6) Sub-paragraph (5) has effect despite any provision of rules of court. 45
- (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; 5
 - (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.
- (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 10
 - (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. 15
- (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. 20
 - (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; 25
 - (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
 - (6) Money paid to the Secretary of State by way of a penalty under paragraph 28 must be paid into the Consolidated Fund.

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— 35
- (a) in person,
 - (b) by post,
 - (c) by facsimile transmission, 40

- (d) by e-mail, or
- (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. 5

Interpretation of this Part of this Schedule

28G In this Part of this Schedule – 10
“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 15

28H (1) Regulations under this Part of this Schedule are to be made by statutory instrument.

(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 – 20
(a) may make different provision for different purposes;
(b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.”

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SCHEDULE 11

Section ~~36~~40

25

MARITIME ENFORCEMENT

1 The Immigration Act 1971 is amended as follows.

2 In section 25(1) (offence of assisting unlawful immigration to member State), in paragraphs (a) and (b) after “breach” insert “or attempted breach”. 30

3 In section 25A (helping an asylum-seeker to enter United Kingdom) in subsection (1)(a) –

- (a) after “arrival” insert “or attempted arrival”, and
- (b) after “entry” insert “or attempted entry”. 35

4 In section 25B (assisting entry to United Kingdom in breach of deportation or exclusion order) –

- (a) in subsection (1), in paragraphs (a) and (b) after “breach” insert “or attempted breach”,
- (b) for subsection (2) substitute – 40

“(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.” 4

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- (c) in subsection (3) –
- (i) in paragraphs (a) and (b) after “remain” insert “, or attempt to arrive in, enter or remain,”; and
 - (ii) ~~at the end of paragraph (a) insert “and”;~~
 - (iii) ~~omit the word “and” at the end of paragraph (b);~~ 5
 - (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 – 10
- “(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 –
- “(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.” 15
- 6 In section ~~28A~~ 28A(3) (arrest without warrant) in paragraphs (a) and (b) after “committed” insert “or attempted to commit”.
- 7 After Part 3 insert – 20

“PART 3A

MARITIME ENFORCEMENT

- 28M Enforcement powers in relation to ships: England and Wales** 25
- (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 –
 - (a) a United Kingdom ship; 30
 - (b) a ship without nationality;
 - (c) a foreign ship;
 - (d) a ship registered under the law of a relevant territory.
 - (2) But Part 1 powers may be exercised only – 35
 - (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, 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. 40
 - (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. 45

28N Enforcement powers in relation to ships: Scotland

- (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 – 5
 - (a) a United Kingdom ship;
 - (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 – 10
 - (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. 15
- (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. 20

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 – 25
 - (a) a United Kingdom ship;
 - (b) a ship without nationality;
 - (c) a foreign ship;
 - (d) a ship registered under the law of a relevant territory. 30
- (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. 35
- (3) The authority of the Secretary of State is required before [an immigration officer](#), 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. 35
- (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. 40

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
 (c) the condition in subsection (7) is met.
- (2) Part 1 powers may be exercised under subsection (1) only – 5
 (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.
- (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 – 10
 (a) the ship is pursued there,
 (b) immediately before the pursuit of the ship, the ship was in Scotland waters, and 15
 (c) the condition in subsection (7) is met.
- (4) Part 2 powers may be exercised under subsection (3) only –
 (a) for the purpose mentioned in subsection (2)(a) of section 28N, and 20
 (b) (if relevant) in accordance with subsections (3) and (4) of that section.
- (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 – 25
 (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. 30
- (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. 35
- (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 40
 (b) the pursuit of the ship is not interrupted.
- (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.
- (9) For the purposes of subsection (7)(b), pursuit is not interrupted by reason only of the fact that – 45
 (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. 50

- (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 – 5
- “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 – 10
- (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; 15
- “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, 20
- (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; 25
- “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;
- ~~“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;~~ 30
- “Northern Ireland constable” means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
- “Northern Ireland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Northern Ireland; 35
- “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; 40
- “relevant territory” means –
- (a) the Isle of Man;
- (b) any of the Channel Islands;
- (c) a British overseas territory;

- “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;
- “ship” includes every description of vessel (including a hovercraft) used in navigation; 5
- “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
 - (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; 10
- “United Kingdom ship” means a ship which –
- (a) is registered under Part 2 of the Merchant Shipping Act 1995,
 - (b) is a Government ship within the meaning of that Act, 15
 - (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
 - (d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968. 20
- (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 –
- (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 25
 - (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.”
- 8 After Schedule 4 insert –
- “SCHEDULE 4A Sections 28M, 28N and 28O 30
- ENFORCEMENT POWERS IN RELATION TO SHIPS
- PART 1
- ENGLAND AND WALES 35
- 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). 40
- (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);

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

5

Power to stop, board, divert and detain

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

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- (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—

15

- (a) stop the ship;
- (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).

20

(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.

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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—

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- (a) to an offence under section 25, 25A and 25B, or
- (b) to an offence that is connected with an offence under any of those sections.

(2) The relevant officer may search—

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- (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.

40

(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

- (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 –
- (a) open any containers; 5
 - (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);
 - (c) make photographs or copies of anything the production of which the relevant officer has power to require. 10
- (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. 15
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3). 15
- (8) A power conferred by this paragraph may be exercised on the ship or elsewhere.
- Power of arrest and seizure* 20
- 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. 25
- (3) The relevant officer may seize and ~~detain~~ retain 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). 30
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere.
- Protective searches of persons* 35
- 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 –
- (a) cause physical injury, 40
 - (b) cause damage to property, or
 - (c) endanger the safety of any ship.
- (2) The power conferred by sub-paragraph (1) may be exercised – 45

- (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.
- (3) The relevant officer may seize and retain anything which the officer has reasonable grounds to believe might – 5
 - (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. 10
- (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. 15

Search for nationality documents

- 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. 20
- (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. 25
- (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. 30
- (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. 35
- (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 40

- (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

- 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.

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

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

Protection of ~~constables and enforcement~~ relevant 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 –
- (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 –
- (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 England and Wales 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 51 weeks, to a fine or to both.
- (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

- 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.

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
 - (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;
 - (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).
- (4) A relevant officer must give notice in writing to the master of any ship detained under this paragraph. 5
- (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.

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 – 10
 - (a) to an offence under section 25, 25A or 25B, or
 - (b) to an offence that is connected with an offence under any of those sections. 15
- (2) The relevant officer may search –
 - (a) the ship;
 - (b) anyone on the ship;
 - (c) anything on the ship (including cargo). 20
- (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) –
 - (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 25
 - (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 – 30
 - (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); 35
 - (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. 40
- (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

- 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. 5
- (2) The relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence. 10
- (3) The relevant officer may seize and ~~detain~~ retain 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). 15
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere. 15

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 – 20
- (a) cause physical injury,
(b) cause damage to property, or
(c) endanger the safety of any ship. 25
- (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
(b) only to the extent that it is reasonably required for the purpose of discovering any such thing. 30
- (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. 35
- (4) If the person is detained, nothing seized under sub-paragraph (3) may be retained when the person is released from detention. 40
- (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.

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. 5
- (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. 10
- (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. 15
- (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. 20
- (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 25
- (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 – 30
- (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. 35

Assistants

- 18 (1) A relevant officer may –
- (a) be accompanied by other persons, and
- (b) take equipment or materials, 40
- 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.

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Evidence of authority

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

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Protection of ~~constables and enforcement~~ relevant 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.

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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.

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PART 3

NORTHERN IRELAND

- Introductory* 5
- 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). 10
- (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 ([SI 1989/1341](#) (~~N.I.~~ [NI 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. 15
- 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 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 England and Wales or elsewhere)~~ [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*
- 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 – 40
- (a) to an offence under section 25, 25A or 25B, or
- (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 –
- (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); 15
 - (c) make photographs or copies of anything the production of which the officer has power to require. 20
- (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).
- (8) A power conferred by this paragraph may be exercised on the ship or elsewhere.

Power of arrest and seizure 30

- 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. 35
- (3) The relevant officer may seize and ~~detain~~ retain 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). 40
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere. 45

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 –
- (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 –
- (a) cause physical injury,
 - (b) cause damage to property, or 15
 - (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.
- (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. 20
- (6) A power conferred by this paragraph may be exercised on the ship or elsewhere.

Search for nationality documents

- 28 (1) The relevant officer may require a person found on the ship to produce a nationality document. 25
- (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.
- (3) The power conferred by sub-paragraph (2) may be exercised – 30
- (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.
- (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. 35
- (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. 40

- (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 – 5
- (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 – 10
- (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 15

- 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. 20
- (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 25

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

Evidence of authority 30

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

Protection of ~~constables and enforcement~~ relevant officers 35

- 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 –
- (a) the act was done in good faith, and
 - (b) there were reasonable grounds for doing it. 40

Offences

- 33 (1) A person commits an offence under the law of Northern Ireland 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 Northern Ireland 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 6 months, to a fine not exceeding level 5 on the standard scale or to both.”

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SCHEDULE 12

SCHEDULE 13 Section 50⁵⁴

CIVIL REGISTRATION FEES

PART 1

POWERS TO MAKE REGULATIONS FOR THE CHARGING OF FEES

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Marriage Act 1949 (c. 76)

- 1 Before section 72 of the Marriage Act 1949 (but after the heading of Part 6 of that Act) insert –

“71A Fees

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- (1) The Secretary of State may by regulations provide for fees to be payable to such persons as may be prescribed in respect of –
- (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;

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- (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));
 - (f) the delivery under section 57(1) of a certified copy of entries in a marriage register book; 5
 - (g) the carrying out of a search of –
 - (i) any marriage register book,
 - (ii) any index kept in relation to such a book, or
 - (iii) certified copies of entries in such a book; 10
 - (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;
 - (j) such other marriage services as may be prescribed.
- (2) Regulations under this section may – 15
- (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. 20
- (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 reimbursement, reduction, waiver or refund of part or all of a fee whether by conferring a discretion or otherwise. 25
- (6) Regulations under this section must be made by statutory instrument.
- (7) Regulations under this section may – 30
- (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.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 35
- (9) In this section –
- “marriage services” means services in connection with marriages which are provided by or on behalf of the Registrar General, a superintendent registrar or registrar; 40
 - “prescribed” means prescribed in regulations made under this section.”

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 – 5
- (a) the issue of a certificate under section 13(2);
 - (b) the carrying out of a search of –
 - (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; 10
 - (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);
 - (e) such other birth or death registration services as may be prescribed. 15
- (2) Regulations under this section may –
- (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. 20
- (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. 25
- (6) In this section –
- “birth or death registration services” means services in connection with the registration of births or deaths which are provided – 30
 - (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.”

Registration Service Act 1953 (c. 37)

- 3 After section 19A of the Registration Service Act 1953 insert – 35

“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.

- (2) The regulations may –
 - (a) specify the amount of any fee payable under the regulations, or
 - (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.
- (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.
- (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)

- 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.
 - (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.”
- (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 –
 - “(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.
- (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.” 5

PART 2

CONSEQUENTIAL AND RELATED AMENDMENTS

Places of Worship Registration Act 1855 (c. 81) 10

- 6 For section 5 of the Places of Worship Registration Act 1855 (fee to superintendent registrar) substitute –

“5 Fees

- (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. 15
- (2) Regulations under this section may –
- (a) specify the amount of any fee payable under the regulations, or
 - (b) set out how such a fee is to be determined. 20
- (3) Subsection (4) applies where the regulations provide for a fee to be payable to a superintendent 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 to the Registrar General in such circumstances as may be set out in the regulations. 25
- (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.
- (6) Regulations under this section must be made by statutory instrument. 30
- (7) 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 Secretary of State considers appropriate. 35
- (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) –
- (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
 - (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.”

Marriage Act 1949 (c. 76)

- 8 The Marriage Act 1949 is amended as follows. 15
- 9 In section 27 (notice of marriage) omit subsections (6) and (7).
- 10 In section 31 (marriage under certificate without licence) –
- (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). 20
- 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) – 25
- (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).
- 14 In section 57 (quarterly returns to superintendent registrar) omit subsection (4). 30
- 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. 35
- 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). 40
- 19 In section 74 (regulations) in subsection (1)(b), after “this Act” insert “(other than section 71A)”. 40

- 20 In section 78 (interpretation) in subsection (1), in the definition of “prescribed” after ““prescribed”” insert “(other than in section 71A)”.

Births and Deaths Registration Act 1953 (c. 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”. 5
- 23 In section 30 (searches of indexes kept by Registrar General) –
 (a) in subsection (2), omit from “, on payment” to the end, and
 (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. 10
- 25 In section 32 (searches in registers kept by registrars) omit from “, on payment” to the end of paragraph (c).
- 26 In section 33 (short certificate of birth) in subsection (1), omit from “on payment” to “and”. 15
- 27 In section 33A (short certificate of death) –
 (a) in subsection (1), for paragraphs (a) and (b) substitute “, on furnishing the prescribed particulars,” and
 (b) omit subsection (3).
- 28 In section 34A (searches and records of information: additional provision) omit subsection (2). 20
- 29 In section 39 (regulations made by the Registrar General) in paragraph (a), for “and 34A” substitute “, 34A and 38A”.
- 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”. 25
- 31 In section 41 (interpretation) in subsection (1), in the definition of “prescribed”, for “and 10C” substitute “, 10C and 38A”. 30

Registration Service Act 1953 (c. 37)

- 32 Omit section 16 of the Registration Service Act 1953 (general provision as to fees).

Factories Act 1961 (c. 34)

- 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

- “(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.”

Public Expenditure and Receipts Act 1968 (c. 14)

- 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.

Marriage (Registrar General’s Licence) Act 1970 (c. 34)

- 35 Omit section 17 of the Marriage (Registrar General’s Licence) Act 1970 (fees).

Social Security Administration Act 1992 (c. 5)

- 36 (1) Section 124 of the Social Security Administration Act 1992 (provisions relating to age, death and marriage) is amended as follows.
- (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 –

““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.”

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 –
 - “(b) on payment of the appropriate fee;”.

(3) In subsection (4) –

- (a) after the opening words insert –
- ““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”.

Immigration Bill

A

B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

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.*

*Ordered, by The House of Commons,
to be Printed, 17 ~~September~~ November
2015.*

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