



# Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020

## 2020 CHAPTER 20

An Act to make provision to end rights to free movement of persons under retained EU law and to repeal other retained EU law relating to immigration; to confer power to modify retained direct EU legislation relating to social security co-ordination; and for connected purposes. [11th November 2020]

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

## PART 1

### MEASURES RELATING TO ENDING FREE MOVEMENT

#### Modifications etc. (not altering text)

- C1 Pt. 1 extended (Jersey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(EU Withdrawal\) \(Jersey\) Order 2020 \(S.I. 2020/1566\)](#), arts. 1(1), 2, [Sch.](#)
- C2 Pt. 1 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Guernsey\) Order 2020 \(S.I. 2020/1560\)](#), arts. 1(1), 6, [Sch. 5](#), [Sch. 5A](#)

## 1 Repeal of the main retained EU law relating to free movement etc.

Schedule 1 makes provision to—

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*Changes to legislation:* There are currently no known outstanding effects for the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020. (See end of Document for details)

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- (a) end rights to free movement of persons under retained EU law, including by repealing the main provisions of retained EU law relating to free movement, and
- (b) end other EU-derived rights, and repeal other retained EU law, relating to immigration.

**Modifications etc. (not altering text)**

- C3** S. 1 extended (Isle of Man) (with modifications) (coming into force in accordance with art. 1(2) of the amending S.I.) by [S.I. 2008/680](#), art. 23(1)(2)(a), [Sch. 10](#) (as inserted by [The Immigration \(Isle of Man\) \(Amendment\) \(No. 3\) Order 2020 \(S.I. 2020/1576\)](#), art. 7, [Sch.](#))
- C4** S. 1 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Guernsey\) Order 2020 \(S.I. 2020/1560\)](#), arts. 1(1), 6, [Sch. 5](#), [Sch. 5A](#)

**Commencement Information**

- II** [S. 1](#) in force at 31.12.2020 by [S.I. 2020/1279](#), [reg. 4\(a\)](#)

## 2 Irish citizens: entitlement to enter or remain without leave

- (1) The Immigration Act 1971 is amended as follows.
- (2) After section 3 insert—

**“3ZA Irish citizens**

- (1) An Irish citizen does not require leave to enter or remain in the United Kingdom, unless subsection (2), (3) or (4) applies to that citizen.
  - (2) This subsection applies to an Irish citizen if the Irish citizen is subject to a deportation order made under section 5(1).
  - (3) This subsection applies to an Irish citizen if—
    - (a) the Secretary of State has issued directions for the Irish citizen not to be given entry to the United Kingdom on the ground that the Irish citizen's exclusion is conducive to the public good,
    - (b) the Secretary of State has given the Irish citizen notice of the directions, and
    - (c) the directions have not been withdrawn.
  - (4) This subsection applies to an Irish citizen if the Irish citizen is an excluded person for the purposes of section 8B (persons excluded under certain instruments).
  - (5) Where subsection (2), (3) or (4) applies to an Irish citizen, section 1(3) does not permit the Irish citizen to enter the United Kingdom without leave on arriving in the United Kingdom on a local journey from any place in the common travel area.”
- (3) In section 9 (further provisions about the common travel area)—
- (a) in subsection (2), in the closing words, after “British citizens” insert “ or Irish citizens ”;

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- (b) in subsection (4), in the opening words, after “British citizen” insert “ or an Irish citizen ”.
- (4) In Schedule 4 (integration with UK law of immigration law of the Islands)—
  - (a) in paragraph 1, in sub-paragraphs (1) and (2), after “British citizen” insert “ or an Irish citizen ”;
  - (b) in paragraph 4, after “British citizen” insert “ or an Irish citizen ”.

**Modifications etc. (not altering text)**

- C5** S. 2 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Guernsey\) Order 2020 \(S.I. 2020/1560\)](#), arts. 1(1), 6, [Sch. 5](#), [Sch. 5A](#)
- C6** S. 2 extended (Isle of Man) (with modifications) (coming into force in accordance with art. 1(2) of the amending S.I.) by [S.I. 2008/680](#), art. 23(1)(2)(b), [Sch. 10](#) (as inserted by [The Immigration \(Isle of Man\) \(Amendment\) \(No. 3\) Order 2020 \(S.I. 2020/1576\)](#), art. 7, [Sch.](#))

**Commencement Information**

- I2** [S. 2](#) in force at 31.12.2020 immediately before IP completion day by [S.I. 2020/1279](#), [reg. 3](#) (with saving in [S.I. 2020/1309](#), regs. 1(2), 84, [Sch. 5](#) para. 10)

### 3 Protection claimants: legal routes from the EU and family reunion

- (1) The Secretary of State must review, or arrange for a review of, the ways in which protection claimants who are in a member State are able to enter the United Kingdom lawfully.
- (2) For the purposes of this section a “protection claimant” is a person who—
  - (a) has made an application for international protection to a member State, or
  - (b) is not a national of a member State and is seeking to come to the United Kingdom from a member State for the purpose of making a protection claim.
- (3) The review under subsection (1) must, in particular—
  - (a) consider the position of unaccompanied children in member States who are protection claimants and are seeking to come to the United Kingdom to join relatives there, and
  - (b) include a public consultation on that aspect of the review.
- (4) The Secretary of State must, within the period of three months beginning with the day on which this Act is passed, lay before Parliament a statement providing further details about the review under subsection (1) and, in particular, about the aspect of the review described in subsection (3).
- (5) After the review, the Secretary of State must—
  - (a) prepare a report on the outcome of the review or arrange for such a report to be prepared, and
  - (b) publish the report and lay it before Parliament.
- (6) In this section—
  - “application for international protection” has the meaning given by Article 2(h) of [Directive 2011/95/EU](#) of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless

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persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted;

“protection claim” has the same meaning as in Part 5 of the Nationality, Immigration and Asylum Act 2002 (see section 82(2) of that Act);

“relative”, in relation to an unaccompanied child, means a parent, grandparent, uncle, aunt, brother or sister of the child;

“unaccompanied child” means a person under the age of 18 (“the child”) who is not in the care of a person who—

- (a) is aged 18 or over, and
- (b) by law or custom of the country or territory in which the child is present, has responsibility for caring for the child.

#### Commencement Information

- I3** S. 3(1)-(3)(5) in force at 12.1.2021 by [S.I. 2020/1279](#), [reg. 5](#)
- I4** S. 3(2)(6) in force at 11.1.2021 for specified purposes, see s. 9(2)(b)
- I5** S. 3(2)(6) in force at 12.1.2021 in so far as not already in force by [S.I. 2020/1279](#), [reg. 5](#)
- I6** S. 3(4) in force at 11.1.2021, see s. 9(2)(a)

## 4 Meaning of “the Immigration Acts” etc.

(1) In section 61 of the UK Borders Act 2007, in subsection (2) (which defines “the Immigration Acts”)—

- (a) omit the “and” at the end of paragraph (j);
- (b) after paragraph (k) insert “, and
  - (l) Part 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (and Part 3 so far as relating to that Part).”

(2) This Part is not retained EU law.

#### Modifications etc. (not altering text)

- C7** S. 4 extended (Isle of Man) (with modifications) (coming into force in accordance with art. 1(2) of the amending S.I.) by [S.I. 2008/680](#), art. 23(1)(2)(c), [Sch. 10](#) (as inserted by [The Immigration \(Isle of Man\) \(Amendment\) \(No. 3\) Order 2020 \(S.I. 2020/1576\)](#), art. 7, [Sch.](#))
- C8** S. 4 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Guernsey\) Order 2020 \(S.I. 2020/1560\)](#), arts. 1(1), 6, [Sch. 5](#), [Sch. 5A](#)

#### Commencement Information

- I7** [S. 4](#) in force at 31.12.2020 by [S.I. 2020/1279](#), [reg. 4\(b\)](#)

## 5 Consequential etc. provision

(1) The Secretary of State may by regulations made by statutory instrument make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, any provision of this Part.

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- (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying—
  - (a) any provision made by or under primary legislation passed before, or in the same Session as, this Act;
  - (b) retained direct EU legislation.
- (3) The power to make regulations under subsection (1) includes power—
  - (a) to make supplementary, incidental, transitional, transitory or saving provision;
  - (b) to make different provision for different purposes.
- (4) Regulations under subsection (1) may (among other things) make provision applying to persons who, immediately before the coming into force of the repeal of section 7(1) of the Immigration Act 1988 by paragraph 1 of Schedule 1, were not entitled by virtue of section 7(1) of that Act to enter or remain in the United Kingdom without leave.
- (5) Regulations under subsection (1) may (among other things) modify provision relating to the imposition of fees or charges which is made by or under primary legislation passed before, or in the same Session as, this Act.
- (6) The first statutory instrument containing regulations under subsection (1)—
  - (a) must be laid before Parliament after being made, and
  - (b) ceases to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (7) Any other statutory instrument containing regulations under subsection (1) that amend or repeal any provision of primary legislation (whether alone or with other provision) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) A statutory instrument containing regulations under subsection (1), other than a statutory instrument to which subsection (6) or (7) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In calculating the period of 40 days for the purposes of subsection (6), no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than 4 days.
- (10) If regulations cease to have effect as a result of subsection (6), that—
  - (a) does not affect the validity of anything previously done under the regulations, and
  - (b) does not prevent the making of new regulations.

#### Modifications etc. (not altering text)

- C9** S. 5 extended (Guernsey) (with modifications) (coming into force in accordance with art. 1(1) of the amending S.I.) by [The Immigration \(Guernsey\) Order 2020 \(S.I. 2020/1560\)](#), arts. 1(1), 6, Sch. 5, [Sch. 5A](#)
- C10** S. 5 extended (Isle of Man) (with modifications) (coming into force in accordance with art. 1(2) of the amending S.I.) by [S.I. 2008/680](#), art. 23(1)(2)(d), [Sch. 10](#) (as inserted by [The Immigration \(Isle of Man\) \(Amendment\) \(No. 3\) Order 2020 \(S.I. 2020/1576\)](#), art. 7, [Sch.](#))