Clause 2, page 1, line 11, at end insert—
“(1A) After section 2A insert—

“2B Family members of Irish citizens

Nothing in the Immigration Rules (within the meaning of this Act) shall lay down any practice that treats or provides for the family members of Irish citizens differently to the treatment or provision made for the family member of British citizens.”

Member’s explanatory statement

This amendment seeks to ensure that the family members of Irish citizens are treated in the same way as the family members of British citizens.

Clause 2, page 2, line 13, at end insert—
“(6) The Secretary of State may not conclude that the deportation of an Irish citizen is conducive to the public good under section 3(5)(a) unless he concludes that a
higher threshold is reached whereby deportation is in the public interest because there are exceptional circumstances.

(7) No person of any nationality is liable for deportation under section 3(5)(b) where he belongs to the family of an Irish citizen who is or has been ordered to be deported, unless subsection (6) is satisfied in respect of that Irish citizen.

(8) No Irish citizen is liable for deportation under section 3(6) where recommended for deportation by a court empowered under this Act to do so unless, thereafter, the Secretary concludes that his deportation is conducive to the public good in accordance with subsection (6).

(9) An Irish citizen may not be deported or excluded from the United Kingdom if they are among the “people of Northern Ireland” entitled to identify as Irish citizens by virtue of Article 1(vi) of the British-Irish Agreement of 1998.”

Member’s explanatory statement
This amendment would provide additional safeguards against deportation for Irish citizens.

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 2, line 34, leave out “appropriate” and insert “necessary”

Member’s explanatory statement
This amendment would ensure that the Secretary of State may only make regulations which are necessary rather than those which the Minister considers appropriate.

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 2, line 34, leave out “, or in connection with,”

Member’s explanatory statement
This amendment would narrow the scope of the powers provided to the Secretary of State in Clause 4, as recommended by the House of Lords Delegated Powers and Regulatory Reform Committee.

Afzal Khan

Clause 4, page 3, line 1, leave out “make provisions applying” and insert “give leave to enter the United Kingdom”

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 3, line 8, leave out subsection (5)

Member’s explanatory statement
This amendment would narrow the scope of the powers provided to the Secretary of State in Clause 4, as recommended by the House of Lords Delegated Powers and Regulatory Reform Committee.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

Kate Green

Clause 4, page 3, line 10, at end insert—

“(5A) Regulations under subsection (1) must provide that EEA nationals who are employed as personal assistants using funding from a personal budget are exempt from any minimum salary threshold that is set for work visa applications.

(5B) In this section, personal budget has the meaning set out in section 26 of the Care Act 2014.”

Catherine West
Kate Green
Afzal Khan

Clause 4, page 3, line 10, at end insert—

“(5A) Regulations under subsection (1) must provide that EEA nationals, and adult dependants of EEA nationals, who are applying for asylum in the United Kingdom, may apply to the Secretary of State for permission to take up employment if a decision at first instance has not been taken on the applicant’s asylum application within six months of the date on which it was recorded.”

Afzal Khan

Clause 4, page 3, line 10, at end insert—

“(5A) Any regulations made under subsection (1) which introduce a work visa scheme for EEA nationals must be developed in consultation with trade union representatives.

(5B) The Secretary of State must publish an impact assessment on workers’ rights for any regulations made under subsection (1) which introduce a work visa scheme for EEA nationals.”

Nic Dakin

Clause 4, page 3, line 10, at end insert—

“(5A) Regulations under subsection (1) must not be made until the Secretary of State has undertaken and published an impact assessment of the effect of the regulations on the United Kingdom’s health, social care and medical research sectors.

(5B) An impact assessment under subsection (5A) above must include, but is not limited to, an assessment of the regulations impact on—

(a) the health and social care workforce;
(b) the cancer workforce; and
(c) the medical research workforce.

(5C) An impact assessment under subsection 1 must be laid before both Houses of Parliament.”

Kate Green
Tim Loughton
Ms Harriet Harman

Clause 4, page 3, line 10, at end insert—

“(5A) Any regulations issued under subsection (1) which enable children of EEA or Swiss nationals to be removed from the United Kingdom must include—
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(a) a requirement to obtain an individual Best Interests Assessment before a decision is made to remove the child; and

(b) a requirement to obtain a Best Interest Assessment in relation to any child whose human rights may be breached by a decision to remove.

(5B) The assessment under subsection (5A) must cover, but is not limited to—

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his or her age and understanding);

(b) the child’s physical, emotional and educational needs;

(c) the likely effects, including psychological effects, on the child of the removal;

(d) the child’s age, sex, background and any characteristics of the child the assessor considers relevant;

(e) any harm which the child is at risk of suffering if the removal takes place;

(f) how capable the parent facing removal with the child, and any other person in relation to whom the assessor considers the question to be relevant, is of meeting his or her needs;

(g) the citizenship rights of the child including whether they may be stateless and have rights to British citizenship.

(5C) The assessment must be carried out by a suitably qualified and independent professional.

(5D) Psychological or psychiatric assessments must be obtained in appropriate cases.

(5E) The results of the assessment must be recorded in a written plan for the child.”

Member’s explanatory statement
This amendment would ensure that before a decision is taken to remove an EEA or Swiss national child from the UK a comprehensive best interest assessment is obtained.

Stuart C. McDonald
Gavin Newlands

Clause 4, page 3, line 10, at end insert—

“(5A) Regulations under subsection (1) must provide for admission of EU nationals as spouses, partners and children of UK citizens and settled persons.

(5B) Regulations under subsection (1) may require that the EU nationals entering as spouses, partners and children of UK citizens and settled persons can be maintained and accommodated without recourse to public funds, but in deciding whether that test is met, account must be taken of the prospective earnings of the EU nationals seeking entry, as well as any third party support that may be available.

(5C) Regulations under subsection (1) must not include any test of financial circumstances beyond that set out in subsection (5B).”

Member’s explanatory statement
This amendment would ensure that UK nationals and settled persons can be joined in future by EU spouses and partners and children without application of the financial thresholds and criteria that apply to non-EEA spouses, partners and children.

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 3, line 11, leave out subsection (6)

Member’s explanatory statement
This amendment would narrow the scope of the powers provided to the Secretary of State in Clause 4, as recommended by the House of Lords Delegated Powers and Regulatory Reform Committee.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 3, line 17, leave out “other”

*Member’s explanatory statement*

This amendment is consequential on Amendment 3.

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 3, line 17, leave out from “subsection (1)” to “is” on line 19

*Member’s explanatory statement*

This amendment, along with Amendment 7, will ensure that all regulations made under Clause 4(1) are subject to the affirmative procedure.

Afzal Khan

Clause 4, page 3, line 18, leave out “that amend or repeal any provision of primary legislation (whether alone or with any other provision)”

*Member’s explanatory statement*

This amendment would mean that all regulations made under Clause 4 would be subject to the affirmative procedure.

Stuart C. McDonald
Gavin Newlands
Afzal Khan

Clause 4, page 3, line 21, leave out subsection (8)

*Member’s explanatory statement*

This amendment, along with Amendment 6, will ensure that all regulations made under Clause 4(1) are subject to the affirmative procedure.

Kate Green
Tim Loughton

Clause 4, page 3, line 31, at end insert—

“(11) When exercising functions under Clause 4 relating to children and families the Secretary of State must—

(a) have due regard to the requirements of—

(i) Part I of the United Nations Convention on the Rights of the Child, and

(ii) the Optional Protocols of the UNCRC to which the UK is a signatory state.

(b) undertake and publish a Child Rights Impact Assessment.”

*Member’s explanatory statement*

This amendment would place a duty on the Secretary of State to have due regard to the UNCRC when making statutory instruments using the Henry VIII powers in Clause 4. It will also require them to undertake and publish a CRIA for each change to or introduction of statutory instruments or regulations under Clause 4.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

Kate Green
Clause 5, page 4, line 21, at end insert—
“(11) The power to make regulations under subsection (1) may not be used to make regulations removing Title I, Title II or Chapter 1 of Title III of Regulation (EC) No 883/2004.”

Member’s explanatory statement
This amendment would prevent the Secretary of State from making regulations which might remove the ability of British citizens and EEA nationals to aggregate pension rights and social security benefits.

Afzal Khan
Page 3, line 34, leave out Clause 5

Stuart C. McDonald
Gavin Newlands
Clause 7, page 5, line 15, leave out “Scotland”

Stuart C. McDonald
Gavin Newlands
Clause 7, page 5, line 15, at end insert—
“(1A) Section 1 and Schedule 1 of this Act do not extend to Scotland.”

Afzal Khan
Clause 7, page 5, line 32, at end insert—
“(5A) This Act cannot come into force until the House of Commons has passed a motion in the form set out in subsection (5B).
(5B) The form of the motion for the purposes of subsection (5A) is—
“That the Immigration and Social Security Co-Ordination (EU Withdrawal Act) come into force”.

Stuart C. McDonald
Gavin Newlands
Clause 7, page 5, line 32, at end insert—
“(5A) Section 1 must not be brought into force before 30 June 2021.”

Member’s explanatory statement
This amendment would prevent the repeal of free movement until after the 30 June 2021.

Kate Green
Tim Loughton
Clause 7, page 5, line 33, leave out subsection (6) and insert—
“(6) This Act may not come into force until a Minister of the Crown has undertaken and published a Child Rights Impact Assessment of the Bill.
(6A) Section 6 and this section come into force on the day a Minister of the Crown publishes the Child Rights Impact Assessment under subsection (6).”

Afzal Khan

Clause 7, page 5, line 33, leave out from “which” to end of line 34, and insert “the House of Commons has passed a motion in the form set out in subsection (5B) above.”

**Member’s explanatory statement**

This amendment is consequential on Amendment 14.

Afzal Khan
Ms Diane Abbott
Richard Burgon
Imran Hussain
Gloria De Piero
Yasmin Qureshi

Clause 7, page 5, line 37, at end insert—

“(7A) Section 1 of this Act cannot come into force until the Secretary of State has ensured that legal aid is available to all EEA and Swiss nationals, and their family members, who are domiciled or habitually resident in the UK for Early Legal Help on immigration matters.”

Afzal Khan
Ms Diane Abbott

Clause 7, page 5, line 37, at end insert—

“(7A) Section 1 of this Act cannot come into force until the Secretary of State has commissioned an independent review to examine whether the UK’s existing immigration legislation, and any provisions or rules issued under existing legislation, require amending to deal with the ending of freedom of movement under the provisions of this Act.

(7B) The review under subsection 1 must consider, but is not limited to —

(a) an equality impact assessment evaluating whether any individuals subject to the Immigration Act 1971 are discriminated against on the basis of any of the protected characteristics defined in the Equality Act 2010;

(b) an assessment of whether the Immigration Act 1971 needs amending to ensure the human rights of persons who have their freedom of movement removed under the provisions of this Act are protected;

(c) whether sections 20 to 47 of the Immigration Act 2014, sections 34 to 45 of the Immigration Act 2016, and sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 require amending;

(d) whether schedule 2 of the Data Protection Act 2018 requires amending.

(7C) The review under subsection 1 must be laid before both Houses of Parliament.”

Kate Green
Afzal Khan

Clause 7, page 5, line 39, at end insert—

“(8A) The Secretary of State must carry out a gender impact assessment of the Act and lay a report of that assessment before the House of Commons within six months of the passing of the Act.”
Afzal Khan

Clause 7, page 5, line 39, at end insert—
“(8A) Regulations under subsection (8) above may not be made until—
(a) the Secretary of State has completed a review of all cases of deportation, detention, or refusal of status to individuals who entered the United Kingdom before 1973, and the children and descendants of those individuals; and
(b) the Secretary of State has considered the findings of that review and implemented any safeguards deemed necessary, following a public consultation, to ensure that those who lose their right of freedom of movement under the provisions of this Act are protected from any wrongful detention, deportation or denial of legal rights.”

Afzal Khan

Clause 7, page 5, line 39, at end insert—
“(8A) The Secretary of State must not issue any regulations under subsection 8 above until the Secretary of State has implemented any recommendations contained in the Law Commission’s review of the UK’s Immigration Rules which relate to or will relate to persons who, under the provisions of the Act, will lose their right of free movement.”

Afzal Khan

Clause 7, page 5, line 39, at end insert—
“(8A) Regulations under subsections (7) and (8) relating to the coming into force of section 1 or section 5 may not be made until the number of people registered for settled status in the United Kingdom reaches 3 million.”

Member’s explanatory statement
This amendment would prevent the Bill from coming into force until the number of people registered for settled status reaches 3 million.

Stuart C. McDonald
Gavin Newlands

Clause 7, page 5, line 39, at end insert—
“(8A) Regulations under subsection (8) may not be made until the Government has published a review of section 3 of the Immigration Act 1971, examining its impact on human rights.”

Member’s explanatory statement
This amendment would require the Secretary of State to review the impact of section 3 of the Immigration Act 1971 on human rights.

Stuart C. McDonald
Gavin Newlands

Clause 7, page 5, line 39, at end insert—
“(8A) Regulations under subsection (8) may not be made until the Government has repealed paragraph 4 of schedule 2 of the Data Protection Act 2018.”

Member’s explanatory statement
This amendment would mean those parts of the Bill that remove freedom of movement for EEA nationals could not come into force until the Government had repealed the provisions relating to immigration in the Data Protection Act.
Clause 7, page 5, line 39, at end insert—

“(8A) Regulations under subsection (8) may not be made until the Government has amended regulation 12 of the National Health Service (Charges to Overseas Visitors) Regulations 2015 to exempt EEA and Swiss nationals with immigration permission from being charged for NHS services.”

Member’s explanatory statement

This amendment would prevent the Government from bringing into force those parts of the Bill that subject EEA nationals to the domestic immigration system until EEA and Swiss nationals with immigration permission are exempted from NHS overseas visitor charges.

Claire Perry

Clause 7, page 5, line 39, at end insert—

“(8A) Regulations under subsection (8) may not be made until the Secretary of State has published a review of section 3 of the Immigration Act 1971, examining its impact on the human rights of people whose right of free movement is ended by section 1 and schedule 1 of this Act.”

Member’s explanatory statement

This amendment would place a time limit on the Henry VIII powers contained in Clause 4.
“Time limit on detention for EEA and Swiss nationals

(1) The Secretary of State may not detain any person (“P”) who has had their right of free movement removed by the provisions of this Act under a relevant detention power for a period of more than 28 days from the relevant time.

(2) If “P” remains detained under a relevant detention power at the expiry of the period of 28 days then—
   (a) the Secretary of State shall release P forthwith; and
   (b) the Secretary of State may not re-detain P under a relevant detention power thereafter, unless the Secretary of State is satisfied that there has been a material change of circumstances since “P’s” release and that the criteria in section [Initial detention for EEA and Swiss nationals: criteria and duration] are met.

(3) In this Act, “relevant detention power” means a power to detain under—
   (a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal);
   (b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation);
   (c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal); or
   (d) section 36(1) of UK Borders Act 2007 (detention pending deportation).

(4) In this Act, “relevant time” means the time at which “P” is first detained under a relevant detention power.”
To move the following Clause—

“Initial detention for EEA and Swiss nationals: criteria and duration

(1) Any person (“P”) who section [Time limit on detention for EEA and Swiss nationals] applies to may not be detained under a relevant detention power other than for the purposes of examination, unless the Secretary of State is satisfied that—

(a) the person can be shortly removed from the United Kingdom;
(b) detention is strictly necessary to affect the person’s deportation or removal from the United Kingdom; and
(c) the detention of “P” is in all circumstances proportionate.

(2) The Secretary of State may not detain any person (“P”) who section [Time limit on detention for EEA and Swiss nationals] applies to under a relevant detention power for a period of more than 96 hours from the relevant time, unless—

(a) “P” has been refused bail at an initial bail hearing in accordance with subsection (4)(b) of section [Bail hearings]; or
(b) the Secretary of State has arranged a reference to the Tribunal for consideration of whether to grant immigration bail to “P” in accordance with subsection (1)(c) of section [Bail hearings] and that hearing has not yet taken place.

(3) Nothing in subsection (2) shall authorise the Secretary of State to detain “P” under a relevant detention power if such detention would, apart from this section, be unlawful.

(4) In this section, “Tribunal” means the First-Tier Tribunal.

(5) In this section, “relevant detention power” has the meaning given in section [Time limit on detention for EEA and Swiss nationals].”

Member’s explanatory statement

This new clause is consequential on NC1.
To move the following Clause—

**“Bail hearings for EEA and Swiss nationals”**

(1) Before the expiry of a period of 96 hours from the relevant time, the Secretary of State must—
   (a) release any person (“P”) who section [Time limit on detention for EEA and Swiss nationals] applies to;
   (b) grant immigration bail to “P” under paragraph 1 of Schedule 10 to the Immigration Act 2016; or
   (c) arrange a reference to the Tribunal for consideration of whether to grant immigration bail to “P”.

(2) Subject to subsection (3), when the Secretary of State arranges a reference to the Tribunal under subsection (1)(c), the Tribunal must hold an oral hearing (“an initial bail hearing”) which must commence within 24 hours of the time at which the reference is made.

(3) If the period of 24 hours in subsection (2) ends on a Saturday, Sunday or Bank holiday, the Tribunal must hold an initial bail hearing on the next working day.

(4) At the initial bail hearing, the Tribunal must—
   (a) grant immigration bail to “P” under paragraph 1 of Schedule 10 to the Immigration Act 2016; or
   (b) refuse to grant immigration bail to “P”.

(5) Subject to subsection (6), the Tribunal must grant immigration bail to “P” at a bail hearing unless it is satisfied that the Secretary of State has established that the criteria in subsection 1 of section [Initial detention for EEA and Swiss nationals: criteria and duration] are met and that, in addition—
   (a) directions have been given for “P’s” removal from the United Kingdom and such removal is to take place within 96 hours;
   (b) a travel document is available for the purposes of “P’s” removal or deportation; and
   (c) there are no outstanding legal barriers to removal.

(6) Subsection (5) does not apply if the Tribunal is satisfied that the Secretary of State has established that the criteria in subsection 1 of section [Initial detention for EEA and Swiss nationals: criteria and duration] are met and that there are very exceptional circumstances which justify maintaining detention.

(7) In subsection (5) above, “a bail hearing” includes—
   (a) an initial bail hearing under subsection (2) above; and
   (b) the hearing of an application for immigration bail under paragraph 1(3) of Schedule 10 of the Immigration Act 2016.

(8) In this section, “Tribunal” means the First-Tier Tribunal.

(9) The Secretary of State shall provide to “P” or “P’s” legal representative, not more than 24 hours after the relevant time, copies of all documents in the Secretary of State’s possession which are relevant to the decision to detain.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(10) At the initial bail hearing, the Tribunal shall not consider any documents relied upon by the Secretary of State which were not provided to “P” or “P’s” legal representative in accordance with subsection (8), unless—
   (a) “P” consents to the documents being considered; or
   (b) in the opinion of the Tribunal there is a good reason why the documents were not provided to “P” or to “P’s” legal representative in accordance with subsection (8).

(11) The Immigration Act 2016 is amended as follows—
   (a) After paragraph 12(4) of schedule 10 insert—

   “(4A) Sub-paragraph (2) above does not apply if the refusal of bail by the First tier Tribunal took place at an initial bail hearing within the meaning of section [Bail hearings for EEA and Swiss nationals] of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2019.”

Member’s explanatory statement
This new clause is consequential on NC1.

Afzal Khan
Ms Diane Abbott
Nic Dakin
Stuart C. McDonald
Joanna Cherry
Gavin Newlands
Mr David Lammy
Caroline Lucas
Sir Edward Davey
Catherine West
Mr David Davis
Tulip Siddiq
NC4

To move the following Clause—

“Commencement of provisions on detention of EEA nationals

(1) Sections [Time limit on detention for EEA and Swiss nationals], [Initial detention for EEA and Swiss nationals: criteria and duration] and [Bail hearings for EEA and Swiss nationals] come into force three months after the day on which this Act is passed.”

Member’s explanatory statement
This new clause is consequential on NC1.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

Afzal Khan  Ms Diane Abbott  Nic Dakin  Stuart C. McDonald  Joanna Cherry  Gavin Newlands  
Mr David Lammy  Caroline Lucas  Sir Edward Davey  Catherine West  Mr David Davis  Tulip Siddiq  
NC5

To move the following Clause—

“Time limit on immigration detention

(1) The Secretary of State may not detain any person (“P”) under a relevant detention power for a period of more than 28 days from the relevant time.

(2) If “P” remains detained under a relevant detention power at the expiry of the period of 28 days then—

(a) the Secretary of State shall release “P” forthwith; and

(b) the Secretary of State may not re-detain P under a relevant detention power thereafter, unless the Secretary of State is satisfied that there has been a material change of circumstances since “P”s” release and that the criteria in section [Initial detention: criteria and duration] are met.

(3) In this Act “relevant detention power” means a power to detain under—

(a) paragraph 16(2) of Schedule 2 to the Immigration Act 1971 (detention of persons liable to examination or removal);

(b) paragraph 2(1), (2) or (3) of Schedule 3 to that Act (detention pending deportation);

(c) section 62 of the Nationality, Immigration and Asylum Act 2002 (detention of persons liable to examination or removal); or

(d) section 36(1) of UK Borders Act 2007 (detention pending deportation).

(4) In this section, “relevant time” means the time at which “P” is first detained under a relevant detention power.”

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Afzal Khan  Ms Diane Abbott  Nic Dakin  Stuart C. McDonald  Joanna Cherry  Gavin Newlands  
Mr David Lammy  Caroline Lucas  Sir Edward Davey  Catherine West  Mr David Davis  Tulip Siddiq  
NC6

To move the following Clause—

“Initial detention: criteria and duration

(1) Any person (“P”) who section [Time limit on immigration detention] applies to may not be detained under a relevant detention power other than for the purposes of examination, unless the Secretary of State is satisfied that—

(a) the person can be shortly removed from the United Kingdom;
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(b) detention is strictly necessary to affect the person’s deportation or removal from the United Kingdom; and
(c) the detention of “P” is in all circumstances proportionate.

(2) The Secretary of State may not detain any person (“P”) who section [Time limit on immigration detention] applies to under a relevant detention power for a period of more than 96 hours from the relevant time, unless—
(a) “P” has been refused bail at an initial bail hearing in accordance with subsection 3(4)(b) of section [Bail hearings]; or
(b) the Secretary of State has arranged a reference to the Tribunal for consideration of whether to grant immigration bail to “P” in accordance with subsection 3(1)(c) of clause[Bail hearings] and that hearing has not yet taken place.

(3) Nothing in subsection (2) shall authorise the Secretary of State to detain “P” under a relevant detention power if such detention would, apart from this section, be unlawful.

(4) In this section, “Tribunal” means the First-Tier Tribunal.

(5) In this section, “relevant detention power” has the meaning given in section [Time limit on immigration detention].”

Member’s explanatory statement
This new clause is consequential on NC5.

Afzal Khan
Ms Diane Abbott
Nic Dakin
Stuart C. McDonald
Joanna Cherry
Gavin Newlands
Mr David Lammy
Caroline Lucas
Sir Edward Davey
Catherine West
Mr David Davis
Tulip Siddiq
NC7

To move the following Clause—

“Bail hearings

(1) Before the expiry of a period of 96 hours from the relevant time, the Secretary of State must—
(a) release “P”;
(b) grant immigration bail to “P” under paragraph 1 of Schedule 10 to the Immigration Act 2016; or
(c) arrange a reference to the Tribunal for consideration of whether to grant immigration bail to “P”.

(2) Subject to subsection (3), when the Secretary of State arranges a reference to the Tribunal under subsection (1)(c), the Tribunal must hold an oral hearing (“an initial bail hearing”) which must commence within 24 hours of the time at which the reference is made.

(3) If the period of 24 hours in subsection (2) ends on a Saturday, Sunday or Bank holiday, the Tribunal must hold an initial bail hearing on the next working day.

(4) At the initial bail hearing, the Tribunal must—
(a) grant immigration bail to “P” under paragraph 1 of Schedule 10 to the Immigration Act 2016; or
Subject to subsection (6), the Tribunal must grant immigration bail to “P” at a bail hearing unless it is satisfied that the Secretary of State has established that the criteria in subsection 1 of section [Initial detention: criteria and duration] are met and that, in addition—

(a) directions have been given for “P’s” removal from the United Kingdom and such removal is to take place within 96 hours;

(b) a travel document is available for the purposes of “P’s” removal or deportation; and

(c) there are no outstanding legal barriers to removal.

Subsection (5) does not apply if the Tribunal is satisfied that the Secretary of State has established that the criteria in subsection 1 of section [Initial detention: criteria and duration] above are met and that there are very exceptional circumstances which justify maintaining detention.

In subsection (5) above, “a bail hearing” includes—

(a) an initial bail hearing under subsection (2) above; and

(b) the hearing of an application for immigration bail under paragraph 1(3) of Schedule 10 of the Immigration Act 2016.

In this section, “Tribunal” means the First-Tier Tribunal.

The Secretary of State shall provide to “P” or “P’s” legal representative, not more than 24 hours after the relevant time, copies of all documents in the Secretary of State’s possession which are relevant to the decision to detain.

At the initial bail hearing, the Tribunal shall not consider any documents relied upon by the Secretary of State which were not provided to “P” or “P’s” legal representative in accordance with subsection (8), unless—

(a) “P” consents to the documents being considered; or

(b) in the opinion of the Tribunal there is a good reason why the documents were not provided to “P” or to “P’s” legal representative in accordance with subsection (8).

The Immigration Act 2016 is amended as follows—

(a) After paragraph 12(4) of schedule 10 insert—

“(4A) Sub-paragraph (2) above does not apply if the refusal of bail by the First tier Tribunal took place at an initial bail hearing within the meaning of section [Bail hearings for EEA and Swiss nationals] of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2019.”.”

Member’s explanatory statement

This new clause is consequential on NC5.
To move the following Clause—

“Commencement of detention provisions

(1) Sections [Time limit on immigration detention], [Initial detention: criteria and duration] and [Bail hearings] come into force three months after the day on which this Act is passed.”

Member’s explanatory statement

This new clause is consequential on NC5.

To move the following Clause—

“Super-affirmative procedures for Immigration Rules

(1) The Immigration Act 1971 is amended in accordance with subsection (2).
(2) After section 3(2) insert—

“(2A) Any statement of the rules, or of any changes to the rules, which affect the rights and obligations of persons who will lose their right of freedom of movement under the provisions of the Immigration and Social Security Co-Ordination (EU Withdrawal) Act may not be made or have effect unless the Secretary of State has complied with subsections (2B) to (2F) below.

(2B) If the Secretary of State proposes to make changes to the rules under section (2A) above, the Secretary of State must lay before parliament a document that—

(a) explains the proposal; and
(b) sets it out in the form of a draft order.

(2C) During the period of 60 days beginning with the day on which the document was laid under subsection (2B) (the “60-day period”), the Secretary of State may not lay before Parliament a draft order to give effect to the proposal (with or without modification).

(2D) In preparing a draft order under section (2A) above, the Secretary of State must have regard to any of the following that are made with regard to the draft order during the 60-day period—

(a) any representations; and
(b) any recommendations of a committee of either House of Parliament charged with reporting on the draft order.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(2E) When laying before Parliament a draft order to give effect to the proposal (with or without modifications), the Secretary of State must also lay a document that explains any changes made to the proposal contained in the document under subsection (2B).

(2F) In calculating the 60-day period, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is not adjourned for more than 4 days.”

Member’s explanatory statement
This new clause would amend the Immigration Act 1971 to ensure that any changes to the UK’s Immigration Rules which affect EEA or Swiss nationals must be made under the super affirmative procedure.

Afzal Khan

To move the following Clause—

“Settled status: right to appeal
(1) When a person whose right of free movement is removed by the provisions of this Act makes an application for settled or pre-settled status, that person may make an appeal to the First-tier Tribunal (Immigration and Asylum Chamber) if—
(a) the application is turned down, or
(b) the person is granted pre-settled status but there is evidence to show that the person should have been granted settled status.
(2) Subsection (1) applies if the United Kingdom leaves the European Union—
(a) following a negotiated withdrawal agreement, or
(b) without a negotiated withdrawal agreement.”

Afzal Khan

To move the following Clause—

“Hostile environment and EEA nationals
(1) This section applies where EEA nationals and Swiss nationals, and their family members, are subject to legislation and regulations encompassing the “hostile environment”.
(2) The Secretary of State must make provision to ensure that, under the hostile environment measures, EEA nationals and Swiss nationals and their family members are treated no less favourably than British citizens in an equivalent position, until the number of people registered for settled status reaches 3 million people or until 30 June 2021, whichever is later.
(3) For the purposes of this section, the “hostile environment” comprises the following measures, including all regulations, policies, and guidance issued pursuant or relating to them—
(a) sections 20 to 47 of the Immigration Act 2014;
(b) sections 34 to 45 of the Immigration Act 2016;
(c) sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006;
(d) section 175 of the National Health Service Act 2006; and
(e) schedule 2, paragraph 4, of the Data Protection Act 2018.”

**Member’s explanatory statement**

This new clause would prevent the hostile environment from being applied to EEA nationals, Swiss nationals, or their family members until the number of people registered for settled status reaches 3 million or 30 June 2021, whichever is later.

Eleanor Smith

To move the following Clause—

**“NHS Charges for EEA and Swiss nationals**

(1) Any EEA or Swiss national, or family member of an EEA or Swiss national, resident in the United Kingdom shall be deemed ordinarily resident for the purposes of section 175 of the National Health Service Act 2006.

(2) In this section, “family member” has the meaning given in Directive 2004/38/EC of the European Parliament and Council.”

**Member’s explanatory statement**

This new clause would prevent EEA or Swiss nationals, and their family members, who do not have settled status in the UK from being charged for NHS services.

Alison McGovern
Christine Jardine

To move the following Clause—

**“Annual review of the ending of free movement in the United Kingdom**

(1) The Secretary of State must conduct an annual review of the impact of the ending of free movement of people in the United Kingdom.

(2) The annual review under subsection (1) must include, but is not limited to, consideration of the impact the ending of free movement has had on—

(a) the UK economy;
(b) the NHS and social care workforce; and
(c) opportunities for British citizens in the European Economic Area.

(3) When carrying out each an annual review under subsection (1) the Secretary of State must consult with UK businesses.

(4) The first annual review carried out under this section must be commenced within 12 months of this Act having received Royal Assent.

(5) Each subsequent annual review carried out under this section must be commenced within 12 months of the previous review.
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(6) Each annual review carried out under this section must be laid before both Houses of Parliament within 3 months of it having been commenced.”

Alison McGovern
Christine Jardine

To move the following Clause—

“Right of appeal against refusal of settled status

(1) Any person who—
   (a) loses the right of free movement under the provisions of this Act; and
   (b) is refused settled status; or
   (c) is refused settled status but granted pre-settled status; has the right of appeal to the Tribunal.

(2) In this section, “Tribunal” means the First-Tier Tribunal.”

Afzal Khan
Paul Blomfield

To move the following Clause—

“Settled status

(1) Any person who has their right of free movement removed by the provisions contained in this Act has the right of settled status in the United Kingdom if that person—
   (a) is an EEA or Swiss national;
   (b) is a family member of an EEA or Swiss national or person with derived rights;
   (c) is resident in the United Kingdom on or prior to 31 December 2020.

(2) Any person who is entitled to settle status under subsection 1 has the same protection against expulsion as defined in Article 28 of Directive 2004/38/EC of the European Parliament and Council.

(3) The Secretary of State must ensure that any person entitled to settle status under subsection 1 receives proof of that status via a system of registration.

(4) The Secretary of State must issue a paper certificate confirming settled status to any person registered for settled status under this section.

(5) No fee may be charged for applications to register for settled status under this section.

(6) Any person who has acquired settled status under the provisions of subsection 1 is entitled to—
   (a) remain in the United Kingdom indefinitely;
   (b) apply for British citizenship;
   (c) work in the United Kingdom;
   (d) use the National Health Service;
(e) enrol in all educational courses in the United Kingdom;
(f) access all benefits and pensions, if they meet the eligibility requirements.

(7) A person’s right to use the National Health Service (d), enrol in educational courses (e) and access all benefits and pensions (f) under subsection (6), is the same as those for a British national.

(8) Any person who is entitled to settled status under subsection (1) loses their settled status only
(a) if they are absent from the United Kingdom for a period exceeding five continuous years after 31 December 2021 or
(b) if the criteria for expulsion as set out in Article 28 of Directive 2004/38/EC of the European Parliament and Council applies to them.

(9) In this section, “family member” has the meaning given in Directive 2004/38/EC of the European Parliament and Council.

(10) This section applies if the United Kingdom leaves the European Union —
(a) following a ratified and implemented withdrawal agreement; or
(b) without a ratified and implemented withdrawal agreement.”

Afzal Khan
Paul Blomfield

To move the following Clause—

“Rights of family members

(1) Family members of any person (“P”) granted settled status under the provisions of clause [Settled status] are entitled to settled status in the United Kingdom after 31 December 2020 if —
(a) the family member’s relationship with “P” began before 31 December 2020; and
(b) the family member is still in a relationship with “P” when the family member applies for settled status.

(2) Any family member of any person (“P”) granted settled status under the provisions of clause [Settled status] are eligible for a family visa to come and live in the United Kingdom if that relationship began after 31 December 2020.

(3) Any children born in the United Kingdom to a person granted settled status under the provisions of clause [Settled status] is a British citizen, whether the child was born before or after that person being granted settled status.

(4) Any family member who is entitled to settled status under subsection (1) loses their eligibility for settled status if they are absent from the United Kingdom for a period exceeding five continuous years after the date on which their settled status was granted.

(5) In this section, “family member” has the meaning given in Directive 2004/38/EC of the European Parliament and Council.

(6) This section applies if the United Kingdom leaves the European Union —
(a) following a ratified and implemented withdrawal agreement; or
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(b) without a ratified and implemented withdrawal agreement.”

**Member’s explanatory statement**
This new clause is consequential on NC15.

Afzal Khan
Paul Blomfield

NC17

To move the following Clause—

“Settled status: further provisions
(1) The Secretary of State must ensure that no EEA or Swiss national, or family member of an EEA or Swiss national or a person with derived rights, is denied settled status in the United Kingdom on account of their non-exercise of European Union treaty rights or a removal decision made as a result of their non-exercise of European Union treaty rights.
(2) In this section, “family member” has the meaning given in Directive 2004/38/EC of the European Parliament and Council.”

NC18

To move the following Clause—

“Right to family life
(1) Article 8 of Schedule 1 of the Human Rights Act 1998 (Right to respect for private and family life) applies to all EEA and Swiss nationals who are granted settled status in the United Kingdom.
(2) Article 8 of Schedule 1 of the Human Rights Act 1998 (Right to respect for private and family life) applies to all EEA and Swiss nationals who are granted a work visa under the provisions of clause [Work visas for EEA and Swiss nationals].”

**Member’s explanatory statement**
This amendment is consequential on NC21

NC19

To move the following Clause—

“Settled status: further provisions
(1) The Secretary of State must ensure that no EEA or Swiss national, or family member of an EEA or Swiss national or a person with derived rights, is denied settled status in the United Kingdom on account of their non-exercise of European Union treaty rights or a removal decision made as a result of their non-exercise of European Union treaty rights.”
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(2) In this section, “family member” has the meaning given in Directive 2004/38/EC of the European Parliament and Council.”

Ms Diane Abbott
Afzal Khan
To move the following Clause—

“Seasonal Agricultural Work visas scheme for EEA and Swiss nationals

(1) The Secretary of State must introduce a sector-specific work visa to enable farmers to employ EEA and Swiss nationals to come and work in the United Kingdom for limited time periods.

(2) Any EEA and Swiss national is eligible to apply for a visa issued under this section if—
   (a) they have secured a job offer in the United Kingdom; and
   (b) they possess a certificate of sponsorship from a UK employer with a valid sponsorship licence.

(3) A work visa granted under this section remains valid for—
   (a) the duration of time that the person it is granted to is employed in the United Kingdom; and
   (b) for a period not exceeding six months continuous employment.

(4) No minimum income requirement shall be required for a visa issued under this section.

(5) The Secretary of State may by regulations made by statutory instrument make such further provision as the Secretary of State considers appropriate to establish a farming sector-specific work visa under this section.

(6) Any statutory instrument issued under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House.”

Ms Diane Abbott
Afzal Khan
To move the following Clause—

“Work visas for EEA and Swiss nationals

(1) The Secretary of State must introduce a general work visa to enable EEA and Swiss nationals to come and work in the United Kingdom.

(2) Any EEA and Swiss national is eligible to apply for a visa issued under this section if—
   (a) they have secured a job offer in the United Kingdom; and
   (b) they possess a certificate of sponsorship from a UK employer with a valid sponsorship licence.

(3) A work visa granted under this section remains valid for—
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(a) the duration of time that the person it is granted to is employed in the United Kingdom; and
(b) for a period not exceeding 12 months continuous employment.

(4) No minimum income requirement shall be required for a visa issued under this section.

(5) The immediate family members of a person granted a general work visa under this section are entitled to reside in the United Kingdom for the duration of the validity of the work visa.

(6) In this section “immediate family member” means an EEA or Swiss citizen’s spouse or civil partner, or a person related to them (or their spouse or civil partner) as their—

(a) child or grandchild under 21 years old, or dependent child or grandchild of any age; or
(b) dependent parent or grandparent.

(7) The Secretary of State may by regulations made by statutory instrument make such further provision as the Secretary of State considers appropriate to establish a general work visa under this section.

(8) Any statutory instrument issued under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House.”

Stephen Timms
Kate Green
Gavin Newlands
Stuart C. McDonald

To move the following Clause—

“EEA Nationals and the TOEIC test

(1) The Secretary of State must disregard the results of the TOEIC (Test of English for International Communication) test for any EEA or Swiss national who applies for—

(a) settled status;
(b) pre-settled status;
(c) a visa to work or study in the United Kingdom; or
(d) any new visa system established under the provisions of this Act.

(2) The Secretary of State must, within 6 months of this Act having received Royal Assent, carry out a review of the consequences of the licence given to ETS (Educational Testing Service) to administer the TOEIC test in the UK.

(3) The review under subsection 2 must include, but is not limited to, consideration of the allegations that some candidates may have cheated when taking the TOEIC test.

(4) The review under subsection (3) must be laid before both Houses of Parliament.”
To move the following Clause—

“Agreement with the EU on unaccompanied children
A Minister of the Crown must commit to negotiate, on behalf of the United Kingdom, an agreement with the European Union under which an unaccompanied child who has made an application for international protection to a member State may come to the United Kingdom to join a relative, in accordance with section 17 of the European Union (Withdrawal) Act 2018, such that the agreement becomes law in the UK before the end of any transition period agreed as part of a withdrawal agreement or within 3 months in the event of the UK leaving the EU without a deal.”

Member’s explanatory statement
This new clause would mean that unaccompanied children can continue to be reunited with family members in the UK following the UK’s withdrawal from the EU, as currently provided for as part of the Dublin III Regulation.

To move the following Clause—

“Memorandum of understanding between the Department for Work and Pensions and the Home Office on the automated residency check for the EU Settlement Scheme
The Secretary of State shall, on the day on which this Act is passed, publish the memorandum of understanding between the Department for Work and Pensions and the Home Office regarding automated residency checks for the purposes of the EU Settlement Scheme.”

Member’s explanatory statement
This new clause would mean the memorandum of understanding between the DWP and the Home Office regarding the automated residency checks for the EU Settlement Scheme is published.

To move the following Clause—

“Data categories for the automated residency check for the EU Settlement Scheme
The Secretary of State shall, on the day on which this Act is passed, publish which categories of data are provided by the Department for Work and Pensions to the
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Home Office for the purpose of the automated residency checks for the EU Settlement Scheme.”

**Member’s explanatory statement**

*This new clause would require the Home Office to publish information on which categories of data are provided by the DWP to the Home Office for the purpose of the automated residency checks for the EU Settlement Scheme.*

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Stuart C. McDonald

Gavin Newlands

To move the following Clause—

“**Process applied by the Home Office during the automated residency check for the EU Settlement Scheme**

(1) In relation to the automated residency check for the EU Settlement Scheme, the Secretary of State shall, on the day on which this Act is passed, publish the details of the process, which is used in order to—

(a) convert the data provided by Her Majesty’s Revenue and Customs to a record of residency;

(b) ascertain whether the record of residency created using the data provided by Her Majesty’s Revenue and Customs meets the criteria for settled status;

(c) convert the data provided by the Department for Work and Pensions to a record of residency;

(d) ascertain whether the record of residency created using the data provided by the Department for Work and Pensions meets the criteria for settled status;

(e) combine the record of residency created using the data provided by Her Majesty’s Revenue and Customs with the record of residency created using the data provided by the Department for Work and Pensions; and

(f) ascertain whether the combined record of residency created by the process set out in subsection (e) meets the criteria for settled status.

(2) The Secretary of State shall publish any change to the process set out in subsection (1) within a period of seven days after such a change is implemented.”

**Member’s explanatory statement**

*This new clause would mean that the process applied by the Home Office during the automated residency check, any changes made to that process, and information regarding that process, would be published.*
To move the following Clause—

“Data protection impact assessment relating to the automated residency check for the EU Settlement Scheme

The Secretary of State shall, on the day on which this Act is passed, publish a data protection impact assessment relating to the automated residency checks for the purposes of the EU Settlement Scheme.”

Member’s explanatory statement

This new clause would mean that the Secretary of State had to publish a data protection impact assessment relating to the automated residency checks within the EU Settlement Scheme application process.

To move the following Clause—

“Information to applicants on the outcome of the automated residency check

At the same time as an applicant to the EU Settlement Scheme receives a wholly or partially unsuccessful result from the automated residency check, the Secretary of State must provide the applicant with—

(a) the periods of time during which the Secretary of State accepts that the applicant was resident;
(b) the periods of time during which the data do not evidence residence;
(c) the data processed by the automated residency check;
(d) information on the process that was applied to the data in paragraph (c) to produce the periods of time as set out in paragraphs (a) and (b).”

Member’s explanatory statement

This new clause would mean information was given immediately to an applicant who was informed that the automated residency check result for the EU Settlement Scheme was not successful.

To move the following Clause—

“Legal limits on the use of personal data processed during the EU Settlement Scheme

(1) The Secretary of State may not further process personal data that has been processed during the EU Settlement Scheme application procedure unless—

(a) the data subject has given consent to the processing of his or her personal data for such further processing, or
such further processing is limited to what is necessary in relation to the purposes for which the data are processed, and not further processed in a manner incompatible with the purposes of applying for settled or pre-settled status.

(2) Transferring the personal data to immigration enforcement or to a database accessible by immigration enforcement, does not satisfy subsection (1)(b).

(3) Paragraph 4 of Schedule 2 of the Data Protection Act 2018 does not apply to further processing referred to in subsection (1).”

**Member’s explanatory statement**

This new clause would mean that the data of EU nationals who apply through the EU Settlement Scheme are not passed to immigration enforcement or to a database which may be accessed by immigration enforcement.

Stuart C. McDonald  
Gavin Newlands

To move the following Clause—

“**Extension of the remit of the Independent Chief Inspector of Borders and Immigration**

(1) The Independent Chief Inspector of Borders and Immigration shall have a remit to inspect any Government department insofar as the department is involved in the EU Settlement Scheme application process.

(2) Government departments in subsection (1) shall include the Department for Work and Pensions and Her Majesty’s Revenue and Customs insofar as they are involved in the automated residency checks for the EU Settlement Scheme.”

**Member’s explanatory statement**

This new clause would mean that the Independent Chief Inspector of Borders and Immigration could inspect Government departments if they were involved in the EU Settlement Scheme application process.

Stuart C. McDonald  
Gavin Newlands

To move the following Clause—

“**Requirement to check manually for system errors when an applicant does not pass the automated residency check**

At the same time as an applicant through the EU Settlement Scheme application process receives a wholly or partially unsuccessful result from the automated residency check, the Secretary of State must manually check for errors in the automated data checks, including but not limited to—

(a) data matching errors;

(b) errors in creation of the record of residency from the data;

(c) errors in adding data to a record of residency to create a new record of residency
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(d) errors resulting from using the process applied during the automated residency checks on a record of residency to create an output.”

Member’s explanatory statement
This new clause would mean that a manual check for errors is made when an applicant does not pass the automated residency check before they are required to provide documentation to prove their residency for the purposes of settled status.

Stuart C. McDonald
Gavin Newlands
NC32

To move the following Clause—

“No fees for applications under appendix EU to the Immigration Rules

(1) No fees shall be chargeable for any EEA or Swiss national making an application for leave to remain (whether for settled status or pre-settled status) under appendix EU to the Immigration Rules.

(2) No fee shall be chargeable for any EEA or Swiss national seeking an administrative review of a decision to reject an application for leave to remain under appendix EU of the immigration rules (whether for settled status or pre-settled status), or to exercise a right of appeal against any such decision.

(3) No fee shall be chargeable for any new or alternative scheme introduced for EEA or Swiss nationals in place of appendix EU to the Immigration Rules.”

Member’s explanatory statement
This new clause would ensure that the Government’s commitment to scrap the settled status fee, and extend the principle to any review or appeal, or any alternative scheme set up to replace appendix EU, is legally binding.

Stuart C. McDonald
Gavin Newlands
NC33

To move the following Clause—

“No time limit for applicants for settled or pre-settled status

(1) No time limit shall be placed on the right of EEA and Swiss nationals to apply for settled or pre-settled status in the United Kingdom.

(2) No EEA or Swiss national can be removed from the United Kingdom under the provisions of the Immigration Act 1971 after exit day if that person meets the requirements for settled or pre-settled status under appendix EU to the Immigration Rules.

(3) In this section, “exit day” has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018.”

Member’s explanatory statement
This new clause would ensure that there is no time limit on applicants to apply for settled or pre-
settled status and prevent EEA nationals who had not yet been granted this status from being removed.

Stuart C. McDonald
Gavin Newlands

NC34

To move the following Clause—

“Right of appeal
(1) The Nationality, Immigration and Asylum Act 2002 is amended in accordance with subsections (2) and (3).
(2) After section 82, insert—

“82B Right of appeal for EEA and Swiss nationals
(1) This section applies where an EEA or Swiss national has applied for settled or pre-settled status under appendix EU of the Immigration Rules and a decision has been made to refuse the application.
(2) Any person who has had their application for settled or pre-settled status refused may appeal to the Tribunal against that decision.
(3) In subsection (1) above, a refusal of the application includes where an application for settled status is refused but pre-settled status is granted instead.
(4) The lodging of an appeal under subsection (2) against a refusal to grant settled status has no impact on the grant of pre-settled status.”

(3) After section 84(5) insert—

“(6) An appeal under section 82B may be brought on the grounds that the decision was not in accordance with the Immigration Rules.”

Member’s explanatory statement
This new clause would ensure a right of appeal for EEA and Swiss nationals refused status under appendix EU of the Immigration Rules.
To move the following Clause—

“**Documented proof of settled or pre-settled status**

Any person granted settled or pre-settled status under appendix EU of the Immigration Rules must be provided with a physical document confirming and evidencing that status within 28 days of that status being granted.”

**Member’s explanatory statement**

This new clause would ensure that all EEA and Swiss nationals granted settled or pre-settled status must be provided with physical proof confirming their status.

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To move the following Clause—

“**Legal Aid**

(1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended in accordance with subsection 2.

(2) In Schedule 1, paragraph 30, after sub-paragraph (d), insert—

“(e) The Immigration and Social Security (EU Withdrawal) Act 2019.”

**Member’s explanatory statement**

This new clause would allow individuals to seek legal aid in order to obtain advice on right to enter and remain under this Act.

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To move the following Clause—

“**Derived rights**

(1) Any person who has resided in the UK with derived rights under relevant EU caselaw shall be treated for the purposes of an application for leave to remain under appendix EU of the Immigration Rules (whether for settled or pre-settled status) on the same basis as an EEA or Swiss national who has resided in the UK.

(2) In this section, “relevant EU caselaw” means—

(a) Zambrano (Case C-34/09 of the European Court of Justice);

(b) Chen (Case C-200/02);

(c) Ibrahim (Case C-310/08) and Teixeria (Case C-480/08).”

**Member’s explanatory statement**

This new clause would mean that non-EEA nationals with derived rights under EU caselaw would
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be treated on the same basis as EEA or Swiss nationals who had resided in the UK when applying for settled or pre-settled status under Appendix EU of the Immigration Rules.

Afzal Khan

To move the following Clause—

“Visa fees
(1) A fee or charge on an EEA or Swiss national applying for a visa may be imposed only if that fee or charge is equal to or less than the cost of providing the visa.
(2) No child with an entitlement to register for British citizenship shall be required to pay a fee to register for British citizenship.
(3) A fee or charge on an EEA or Swiss national making an application to naturalise as a British citizen may be imposed only if that fee or charge is equal to or less than the cost of processing the application.”

Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“Immigration skills charge
No immigration skills charge introduced under section 70A of the Immigration Act 2014, or by regulations thereunder, may be charged in respect of an individual who is an EU national coming to work in the EU.”

Member’s explanatory statement
This new clause ensures no skills charge can be levied in respect of EU nationals coming to work in the UK.

Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“Procedures before making and amending Immigration Rules
(1) Prior to making any amendments to Immigration Rules or making new Immigration Rules that impact upon persons whose right of free movement is ended by section 1 and schedule 1, the Secretary of State must lay before the House—
(a) an assessment of the impact of the proposed amendments or Rules on modern slavery, and
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(b) an assessment of the impact of the proposed amendments or Rules on children.

(2) Prior to any amendments to Immigration Rules or new Rules coming into force that impact upon persons whose right of free movement is ended by section 1 and schedule 1, the Secretary of State must—

(a) lay a draft of the amendments or Rules before the House of Commons
(b) table an amendable motion for debate in respect of the draft amendments or Rules.

(3) Amendments to the motion tabled under subsection (2)(b) may instruct the Secretary of State to change the proposed amendments to the Immigration Rules or new Rules.”

Member’s explanatory statement
This new clause would mean that changes to the Immigration Rules affecting people whose right of free movement is removed by the Bill were debated in Parliament, and that the Government could be instructed to amend the rules.

Stuart C. McDonald
Gavin Newlands

NC41

To move the following Clause—

“Immigration Rules Advisory Committee
Within six months of this Act coming into force, the Secretary of State must establish an Immigration Rules Advisory Committee.”

Member’s explanatory statement
This new clause would establish a new committee to scrutinise the Immigration Rules.

Stuart C. McDonald
Gavin Newlands

NC42

To move the following Clause—

“Immigration health charge
No immigration health charge introduced under section 38 of the Immigration Act 2014 may be imposed on an individual who is an EEA or Swiss national.”

Member’s explanatory statement
This new clause would prevent EEA or Swiss nationals paying the immigration health charge.
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Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“Future immigration policy
Within 12 months of this Act coming into force, and every 12 months thereafter, the Secretary of State must lay a report before Parliament setting out how any changes made to the Immigration Rules for EEA and Swiss nationals have affected the extent to which UK employers have adequate access to labour.”

Member’s explanatory statement
This new clause would mean the Secretary of State is accountable to Parliament for drafting Immigration Rule changes that ensure employers have adequate access to labour.

Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“No comprehensive sickness insurance requirement
Rules in Appendix EU of the Immigration Rules, or any replacement scheme, may not include a requirement for an applicant for leave to remain (whether settled or pre-settled status) to show that they have or have ever had comprehensive sickness insurance.”

Member’s explanatory statement
The withdrawal agreement allows for certain EU nationals to be required to show they have comprehensive sickness insurance. This new clause would mean that no such requirement would be implemented.

Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“Registration as a British citizen
(1) No person, who has at any time exercised any of the rights for which Schedule 1 makes provision to end, may be charged a fee to register as a British citizen that is higher than the cost to the Secretary of State of exercising the function of registration.

(2) No child of a person who has at any time exercised any of the rights for which Schedule 1 makes provision to end may be charged a fee to register as a British citizen if that child is receiving the assistance of a local authority.

(3) No child of a person who has at any time exercised any of the rights for which Schedule 1 makes provision to end may be charged a fee to register as a British citizen that the child or the child’s parent, guardian or carer is unable to afford.
(4) The Secretary of State must take steps to raise awareness of people to whom subsection (1) applies of their rights under the British Nationality Act 1981 to register as British citizens.”

**Member’s explanatory statement**

This new clause would mean that nobody whose right of free movement was removed by the Bill could be charged a fee for registering as a British citizen that was greater than the cost of the registration process, and would abolish the fee for some children.

Stuart C. McDonald
Gavin Newlands
NC46

To move the following Clause—

**“Payment for NHS services**

Regulation 4 of the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 does not apply to EEA and Swiss nationals and their family members.”

**Member’s explanatory statement**

This new clause would ensure NHS Trusts do not require payment from EEA and Swiss nationals and their family members before providing NHS services.

Stuart C. McDonald
Gavin Newlands
NC47

To move the following Clause—

**“Settled status**

(1) A person to whom this section applies has settled status in the UK.

(2) This section applies to EEA and Swiss nationals, family members of EEA and Swiss nationals, and family members who have retained the right of residence by virtue of a relationship with an EEA or Swiss national and meet any one of the following conditions—

(a) they have a documented right of permanent residence;

(b) they can evidence indefinite leave to enter or remain;

(c) they have completed a continuous qualifying period of five years in any (or any combination) of those categories.

(3) This section also applies to—

(a) EEA and Swiss nationals who have ceased activity, and

(b) family members of EEA and Swiss nationals who have ceased activity and who have indefinite leave to remain under subsection (3)(a), providing the relationship existed at the point the EEA and Swiss national became a person who has ceased activity.

(4) This section also applies to family members of an EEA or Swiss national who has died where—

(a) the EEA or Swiss national was a resident in the UK as a worker or self-employed person at the time of their death;
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(b) the EEA or Swiss national was resident in the UK for a continuous qualifying period of at least two years before dying, or the death was the result of an accident at work or an occupational disease; and

(c) the family member was resident in the UK with the relevant EEA or Swiss national immediately before their death.

(5) This section also applies to (a) a child under the age of 21 years of an EEA or Swiss national or (b) a child under 21 of the spouse or civil partner of an EEA or Swiss national where the spouse or civil partner was the durable partner of the EEA or Swiss national before the specified date, the partnership remained durable at the specified date, and the EEA or Swiss national has settled status under this section.

(6) The Secretary of State must, by way of regulations, make provision for EEA or Swiss nationals to secure documentary evidence of their settled status, without charge.

(7) A person with settled status has indefinite leave to enter or remain in the United Kingdom; has the same rights and entitlements as a UK citizen and cannot lose settled status through absences from the UK of less than five years.

**Member’s explanatory statement**

This new clause would ensure that certain EEA and Swiss nationals, and family members, have settled status by operation of law, and make clear what settled status entails.

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Stuart C. McDonald  
Gavin Newlands  
NC48

To move the following Clause—

“**Settled status: relationships with British citizens**

(1) A person to whom this section applies has settled status in the UK.

(2) This section applies to a family member of a qualifying British citizen and a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen; and the person has a documented right of permanent residence.

(3) This section also applies to a family member of a qualifying British citizen and to a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen and there is valid evidence of their indefinite leave to enter or remain.

(4) This section also applies to a person who meets the following criteria—

(a) they are a family member of a qualifying British citizen or a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen;

(b) the applicant has completed a continuous qualifying period of five years either (or any combination) of those categories; and

(c) the applicant was, for any period of residence as a family member of a qualifying British citizen relied upon under subsection 4(b), in the UK lawfully by virtue of regulation 9(1) to (6) of the EEA Regulations (regardless of whether in the UK the qualifying British citizen was a qualified person under regulation 6).

(5) This section also applies to a person who meets the following criteria—
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(a) the person is a child under the age of 21 years of the spouse or civil partner of the qualifying British citizen (and the marriage or civil partnership was formed before the specified date); and

(b) the applicant is in the UK lawfully by virtue of regulation 9(1) to (6) of the EEA Regulations (regardless of whether in the UK the qualifying British citizen is a qualified person under regulation 6); and

(c) the spouse or civil partner has settled status.

(6) The Secretary of State must, by way of regulations, make provision for persons who qualify for settled status by virtue of this section to secure documentary evidence of their settled status, without charge.

(7) A person with settled status has indefinite leave to enter or remain in the United Kingdom; has the same rights and entitlements as a UK citizen (subject to subsection (9)); and cannot lose settled status through absences from the UK of less than five years.”

Member’s explanatory statement
This new clause would ensure that certain family members of UK citizens have settled status by operation of law, and make clear what settled status entails.

Stuart C. McDonald
Gavin Newlands

NC49

To move the following Clause—

“Limited leave to remain

(1) A person to whom this section applies, has leave to enter and remain until 30 March 2024, or until such time as the person has settled status.

(2) This section applies when—

(a) a person is an EEA or Swiss national, a family member of an EEA or Swiss national or a family member who has retained the right of residence by virtue of a relationship with an EEA or Swiss national; and

(b) the applicant is not eligible for settled status because they have completed a continuous qualifying period of less than five years.

(3) This section applies when—

(a) a person is a family member of a qualifying British citizen and is in the UK lawfully by virtue of regulation 9(1) to (6) of the EEA Regulations (regardless of whether in the UK the qualifying British citizen is a qualified person under regulation 6) or a family member who has retained the right of residence by virtue of a relationship with a qualifying British citizen; and

(b) the applicant is not eligible for settled status solely because they have completed a continuous qualifying period of less than five years.

(4) This section applies when—

(a) the person is a child under the age of 21 years of the spouse or civil partner of the qualifying British citizen (and the marriage or civil partnership was formed before the specified date);

(b) is in the UK lawfully by virtue of regulation 9(1) to (6) of the EEA Regulations (regardless of whether in the UK the qualifying British citizen is a qualified person under regulation 6); and

(c) the spouse or civil partner has been or is being granted limited leave to remain under this section.
Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

(5) The Secretary of State must, by way of regulations, make provision for persons who qualify for leave to remain by virtue of this section to secure documentary evidence of their leave, without charge.

(6) A person with limited leave to enter or remain in the United Kingdom has the same rights and entitlements as a UK citizen.”

Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“Citizens’ rights
A Minister of the Crown must seek to secure at the earliest opportunity a joint UK-EU commitment to adopt part two of the Withdrawal Agreement on Citizens Rights, particularly as it affects people whose right of free movement has been removed by section 1 and schedule 1, and ensure its implementation prior to the UK exiting the European Union, or as soon as possible thereafter.”

Stuart C. McDonald
Gavin Newlands

★ To move the following Clause—

“Refugee family reunion
The Secretary of State must make rules under section 3(2) of the Immigration Act 1971 to allow any person who has exercised a right brought to an end by Section 1 and Schedule 1 and who has been recognised as a refugee in the United Kingdom to sponsor their—

(a) children under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

(b) parents; or

(c) siblings under the age of 25 who were either under the age of 18, or unmarried, at the time the person granted asylum left the country of their habitual residence in order to seek asylum;

to join them in the United Kingdom.”

Member’s explanatory statement
This new clause would expand refugee family reunion rules for EEA and Swiss nationals.
Stuart C. McDonald
Gavin Newlands

★ To move the following Clause—

“Illegal working: EEA and Swiss nationals
Section 24B of the Immigration Act 1971 does not apply to any work undertaken by an EEA or Swiss national.”

Member’s explanatory statement
This new clause would limit the offence of illegal working so that it did not apply to EEA or Swiss nationals.

Stuart C. McDonald
Gavin Newlands

★ To move the following Clause—

“Illegal working: people who qualify for settled or pre-settled status
Section 24B of the Immigration Act 1971 does not apply to any work undertaken by a person who qualifies for settled or pre-settled status under Appendix EU to the Immigration Rules, but fails to apply for such status by the time of any deadline put in place in relation to such applications.”

Member’s explanatory statement
This new clause would limit the offence of illegal working so that it does not apply to EEA or Swiss nationals who qualified for settled status, but failed to apply in time.

Stuart C. McDonald
Gavin Newlands

★ To move the following Clause—

“Immigration Rules Advisory Committee for relevant Immigration Rules
(1) Within 6 months of this Act coming into force, the Secretary of State must establish an Immigration Rules Advisory Committee to consider relevant Immigration Rules.
(2) In this section “relevant Immigration Rules” mean Immigration Rules that apply to persons whose right of free movement is ended by section 1 and schedule 1 of this Act.
(3) The function of the Immigration Rules Advisory Committee shall be to give advice and assistance to the Secretary of State in connection with the discharge of his functions under this Act and in particular in relation to the making of relevant Immigration Rules.
(4) The constitution of the Immigration Rules Advisory Committee shall be set out in regulations.
(5) The Secretary of State shall furnish the Immigration Rules Advisory Committee with such information as the Committee may reasonably require for the proper discharge of its functions.”

Stuart C. McDonald
Gavin Newlands

To move the following Clause—

“Scottish visas: review

(1) The Secretary of State must carry out a review of how to implement a system of Scottish visas for people whose right of free movement is ended by section 1 and schedule 1 of this Act, and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) The review in subsection (1) must consider the following—

(a) whether Scottish Ministers should be able to nominate a specified number of EEA and Swiss nationals for leave to enter or remain each year;

(b) the requirements that could be taken into account when exercising any such power including that the person lives and, where appropriate, works in Scotland and such other conditions as the Secretary of State believes necessary;

(c) the means by which the Secretary of State could retain the power to refuse to grant leave to enter or remain on the grounds that such a grant would—

(i) not be in the public interest, or

(ii) not be in the interests of national security;

(d) how the number of eligible individuals allowed to enter or remain each year under such a scheme could be agreed annually by Scottish Ministers and the Secretary of State;

(e) whether Scottish Ministers should be able to issue Scottish Immigration Rules setting out the criteria by which they will select eligible individuals for nomination, including salary thresholds and financial eligibility.

(3) As part of the review in subsection (1), the Secretary of State must consult the Scottish Government.”

Member’s explanatory statement

This new clause would require the Secretary of State to carry out a review of how a system of Scottish visas could be implemented for EEA and Swiss nationals.
To move the following Clause—

“Recourse to public funds: EEA and Swiss nationals with children

(1) EEA and Swiss nationals with dependants under the age of 18 must be exempt from any no recourse to public funds condition that would otherwise be placed on them under Immigration Rules.

(2) For the purposes of this section, a public fund is defined as any of the following—

(a) attendance allowance;
(b) carer’s allowance;
(c) child benefit;
(d) child tax credit;
(e) council tax benefit;
(f) council tax reduction;
(g) disability living allowance;
(h) discretionary support payments by local authorities or the devolved administrations in Scotland and Northern Ireland which replace the discretionary social fund;
(i) housing and homelessness assistance;
(j) housing benefit;
(k) income-based jobseeker’s allowance;
(l) income related employment and support allowance (ESA);
(m) income support;
(n) personal independence payment;
(o) severe disablement allowance;
(p) social fund payment;
(q) state pension credit;
(r) universal credit;
(s) working tax credit.”

Member’s explanatory statement
This new clause would prevent EEA and Swiss families with children under the age of 18 from being given the right to remain in the UK but not being allowed access to public funds.
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Public Bill Committee: 26 February 2019

Immigration and Social Security Co-ordination (EU Withdrawal) Bill, continued

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.

5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.

ORDER OF THE COMMITTEE [12 FEBRUARY 2019]

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 12 February) meet—

(a) at 2.00 pm on Tuesday 12 February;
(b) at 11.30 am and 2.00 pm on Thursday 14 February;
(c) at 9.25 am and 2.00 pm on Tuesday 26 February;
(d) at 11.30 am and 2.00 pm on Thursday 28 February;
(e) at 9.25 am and 2.00 pm on Tuesday 5 March;
(f) at 11.30 am and 2.00 pm on Thursday 7 March;

(2) the Committee shall hear oral evidence in accordance with the following Table:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Witness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday 12 February</td>
<td>Until no later than 10.30 am</td>
<td>Professor Bernard Ryan, Professor of Migration Law, University of Leicester; Professor Alan Manning, Chair Migration Advisory Committee</td>
</tr>
<tr>
<td>Tuesday 12 February</td>
<td>Until no later than 11.00 am</td>
<td>Migration Watch UK</td>
</tr>
<tr>
<td>Tuesday 12 February</td>
<td>Until no later than 11.25 am</td>
<td>Joint Council for the Welfare of Immigrants</td>
</tr>
<tr>
<td>Tuesday 12 February</td>
<td>Until no later than 3.00 pm</td>
<td>Universities UK; TUC; Royal College of Nursing;</td>
</tr>
<tr>
<td>Tuesday 12 February</td>
<td>Until no later than 4.00 pm</td>
<td>Liberty; Justice</td>
</tr>
<tr>
<td>Tuesday 12 February</td>
<td>Until no later than 4.30 pm</td>
<td>CBI</td>
</tr>
</tbody>
</table>
(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 5; Schedules 2 and 3; Clauses 6 and 7; new Clauses; new Schedules; remaining proceedings on the Bill;
(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 7 March.

**NOTICES WITHDRAWN**

_The following Notices were withdrawn on 21 February 2019:_

Amendment 18