

IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU WITHDRAWAL) BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill (Bill 137) as brought from the House of Lords on 14 October 2020.
- 2 These Explanatory Notes have been prepared by the Home Office in order to assist the reader of the Bill and the Lords amendments, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 131, the Bill as first printed for the Lords.
- 4 These Explanatory Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Lords amendments.
- 5 Lords Amendment 1 was tabled by Lord Rosser, and was opposed by the Government.
- 6 Lords Amendments 2 and 6, 7, 8 and 10 were tabled by Baroness Hamwee, and were opposed by the Government.
- 7 Lords Amendments 3 and 4 were tabled by Lord Dubs, and were opposed by the Government. Lords Amendment 3 was revised by Lord Dubs at Lords Third Reading and the Government did not object.
- 8 Lords Amendment 5 was tabled by Lord Oates, and was opposed by the Government.
- 9 Lords Amendment 9 was tabled by Lord McColl of Dulwich, and was opposed by the Government.
- 10 Lords Amendment 11 was tabled in the name of the Minister.
- 11 In the following Commentary, an asterisk (*) appears in the heading of any paragraph that deals with a non-Government amendment.

Commentary on Lords amendments

Lords Amendments to after clause 1: repeal of the main retained EU law relating to free movement etc.

Lords Amendment 1*

- 12 Amendment 1 would insert a new clause into the Bill to require the Secretary of State to commission and publish an independent report on the impact of ending free movement on the social care sector, including the impact on the social care workforce (such as skills

shortages), visa options for social care workers, and long-term consequences for recruitment, training and terms and conditions for staff. Such report would be required to be published within six months of the Bill being passed.

Lords Amendments to clause 4: consequential etc. provision

Lords Amendment 2*

- 13 Lords Amendment 2 would amend clause 4 to ensure regulations made under this power made provision for UK citizens residing in the EU, the EEA or Switzerland under EU free movement law by the end of the transition period (31 December 2020) to, return to the UK after that date with, or be joined in the UK by, their close family members on EU free movement terms, instead of under the UK's family Immigration Rules.

Lords Amendments to after clause 4: consequential etc. provision

Lords Amendment 3*

- 14 Lords Amendment 3 would insert a new clause into the Bill to ensure that children in the UK with the right of free movement who are in care, and those who are entitled to care leaving support, are automatically granted Indefinite Leave to Remain under the EU Settlement Scheme to ensure they do not become undocumented, regardless of the length of their qualifying period of residence.

Lords Amendment 4*

- 15 Lords Amendment 4 would insert a new clause into the Bill to ensure that rights under UK law to family reunion, at present covered by the Dublin III Regulation, will continue after the transition period and that unaccompanied child refugees in Europe will have a legal route to sanctuary in the UK. The new clause also requires the Secretary of State, within six months of the passing of the Bill, to publish a strategy for ensuring that unaccompanied children on the territory of a relevant Member State will continue to be relocated to the UK if it is in their best interests.

Lords Amendment 5*

- 16 Lords Amendment 5 would insert a new clause into the Bill to provide physical proof of settled and pre-settled status to those who make a successful application through the EU Settlement scheme and make a request for a document providing physical evidence of their migration status. The new clause would require that no fee may be charged for issuing the physical proof.

Lords Amendment 6*

- 17 Lords Amendment 6 would insert a new clause into the Bill to place a limit on the length of time EEA or Swiss citizens may be held in immigration detention of 28 days.

Lords Amendment 7*

- 18 Lords Amendment 7 is linked to Amendment 6 and specifies certain criteria that must be met during the initial detention and that the initial detention period should be no longer than 96 hours.

Lords Amendment 8*

- 19 Amendment 8 is linked to Amendments 6 and 7 and would provide for bail hearings during the initial detention period of 96 hours.

Lords Amendment 9*

- 20 Lords Amendment 9 would insert a new clause into the Bill to require arrangements to be made in the Immigration Rules for EEA or Swiss citizens aged 18 or over who have received a conclusive determination that they are the victim of slavery or human trafficking to be granted leave to remain in the UK for at least 12 months. The only exception would be where the individual is a sexual or violent offender and poses a genuine, present and serious risk to the public.

Lords Amendments to clause 8: commencement

Lords Amendment 10*

- 21 Lords Amendment 10* is linked to Amendments 6 to 8 on a detention time limit of 28 days. It amends clause 8 to provide that the new clauses inserted by those Amendments would come into force six months after the Act is passed.

Lords Amendments to Schedule 1 Part 2: repeal of retained direct EU legislation

Lords Amendment 11

- 22 Lords Amendment 11 clarifies that paragraph 4(2) of Schedule 1 applies only to Articles 2 to 10 of the Workers Regulation in so far as they are inconsistent with, or otherwise capable of affecting the interpretation, application or operation of the Immigration Acts or provision made under them.

Financial Effects of Lords Amendments

- 23 The Department considers that Lords Amendments 4 and 5 would result in significant public expenditure.

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EXPLANATORY NOTES ON LORDS AMENDMENTS

These Explanatory Notes relate to the Lords Amendments to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill as brought from the House of Lords on 19 October.

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