

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

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 4

LORD ROSSER
LORD KENNEDY OF SOUTHWARK

Page 3, line 8, at end insert—

- “() Regulations under subsection (1) must provide that EEA and Swiss nationals, and adult dependants of EEA and Swiss 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.”

Member’s explanatory statement

The amendment would give EEA and Swiss nationals who apply for asylum in the UK the right to apply to the Secretary of State for permission to work if a decision has not been taken on the applicant’s asylum application within six months of the date on which it is recorded as having first been made.

Page 3, line 8, at end insert—

- “() No regulations may be made under subsection (1) after the end of the period of one year beginning with IP completion day.
- () In this section “IP completion day” has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member’s explanatory statement

This would provide that the regulation making powers under this section expire within one year of the end of the transition period.

After Clause 4

LORD DUBS
THE EARL OF DUNDEE

Insert the following new Clause—

“Children in care and children entitled to care leaving support: entitlement to remain

- (1) Any child who has the right of free movement removed by the provisions contained in Part 1 of this Act, and who is in the care of a local authority or entitled to care leaving support, is deemed to have and be granted indefinite leave to remain within the United Kingdom under the EU Settlement Scheme (“the Scheme”).
- (2) The Secretary of State must, for the purposes of subsection (1), issue guidance to local authorities in England, Scotland, Wales and Northern Ireland setting out their duty to identify the children of EEA and Swiss nationals in their care or entitled to care leaving support.
- (3) Before issuing guidance under this section the Secretary of State must consult—
 - (a) the relevant Scottish Minister;
 - (b) the relevant Welsh Minister; and
 - (c) the relevant Northern Ireland Minister.
- (4) The Secretary of State must make arrangements to ensure that personal data relating to nationality processed by local authorities for purposes of identification under subsection (1) is used solely for this purpose and no other immigration control purpose.
- (5) Any child subject to subsection (1) who is identified and granted indefinite leave to remain status after the deadline for applications under the Scheme will be deemed to have had such status and all rights associated with that status from the time of the Scheme deadline.
- (6) This section comes into force on the day on which this Act is passed and remains in effect for 5 years from the day of the deadline of the Scheme.
- (7) For the purposes of this section, children “in the care of a local authority” are defined as children receiving care under any of the following provisions—
 - (a) section 20 of the Children Act 1989 (provision of accommodation for children: general);
 - (b) section 31 of the Children Act 1989 (care and supervision);
 - (c) section 75 of the Social Services and Well-being (Wales) Act 2014 (general duty of local authority to secure sufficient accommodation for looked after children);
 - (d) section 25 of the Children (Scotland) Act 1995 (provision of accommodation for children);
 - (e) Article 25 of the Children (Northern Ireland) Order 1995 (interpretation); and
 - (f) Article 50 of the Children (Northern Ireland) Order 1995 (care orders and supervision orders).

After Clause 4 - continued

- (8) For the purposes of this section, children “entitled to care leaving support” means a child receiving support under any of the following provisions –
- (a) paragraph 19B of Schedule 2 to the Children Act 1989 (preparation for ceasing to be looked after);
 - (b) section 23A(2) of the Children Act 1989 (the responsible authority and relevant children);
 - (c) section 23C(1) of the Children Act 1989 (continuing functions in respect of former relevant children);
 - (d) section 104 of the Social Services and Well-being (Wales) Act 2014 (young people entitled to support under sections 105 to 115);
 - (e) sections 29 and 30 of the Children (Scotland) Act 1995 (advice and assistance for young persons formerly looked after by local authorities); and
 - (f) Article 35(2) of the Children (Northern Ireland) Order 1995 (persons qualifying for advice and assistance).”

Member’s explanatory statement

This new Clause aims to ensure that the children of EEA and Swiss nationals who are in care, and those who are entitled to care leaving support, are granted automatic Indefinite Leave to Remain under the EU Settlement Scheme to ensure they do not become undocumented.

LORD ROSSER
LORD KENNEDY OF SOUTHWARK

Insert the following new Clause –

“Social care visa

- (1) The Secretary of State must by regulations make provision for a social care visa.
- (2) A person is eligible to apply for the social care visa where they meet the conditions in subsection (3).
- (3) The conditions are –
 - (a) the person is –
 - (i) seeking leave to enter or remain in the United Kingdom with a confirmed job offer for the purposes of work in the social care sector; and
 - (ii) an EEA or Swiss national who immediately before the commencement of section 1 of and Schedule 1 to this Act had the right of free movement; or
 - (b) the person is a dependant of a person who meets the conditions in paragraph (a).
- (4) A charge under section 38 of the Immigration Act 2014 (immigration health charge) may not be imposed on any person who has leave to enter or remain in the United Kingdom through a social care visa provided for in regulations under this section.
- (5) No Tier 2 Immigration skills charge will be payable on an individual who has leave to enter or remain in the United Kingdom through a social care visa provided for in regulations under this section.

After Clause 4 - continued

- (6) Regulations under subsection (1) must come into effect no later than the day following IP completion day.
- (7) Regulations under subsection (1) cease to have effect at the end of the period of three years beginning with the day on which they are made, subject to subsection (8).
- (8) The Secretary of State may by regulations amend the date of expiration under subsection (7) so as to extend the period in which regulations under subsection (1) have effect by a minimum of one year.
- (9) Regulations under this section may not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.
- (10) In this section “IP completion day” has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member’s explanatory statement

This new Clause would provide for a dedicated social care visa for EEA and Swiss nationals after the end of free movement. The visa route would be available for 3 years following the end of the transition period, with the option of extension if necessary.

Clause 5

BARONESS SHERLOCK
LORD ROSSER

Page 4, line 19, at end insert –

- “() No regulations may be made under subsection (1) after the end of the period of one year beginning with IP completion day.
- () In this section “IP completion day” has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member’s explanatory statement

This would provide that the regulation making powers under this section expire within one year of the end of the transition period.

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24 July 2020
