

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

[This Provisional Marshalled List includes all amendments tabled for Days 1 and 2. A revised Marshalled List will be produced following the conclusion of proceedings on Day 1. Neither amendments nor members' names may be added between the two.]

PROVISIONAL SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 2nd September 2020, as follows –

Clause 1	Schedules 2 and 3
Schedule 1	Clauses 6 to 9
Clauses 2 to 5	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

BARONESS NEVILLE-ROLFE
LORD GREEN OF DEDDINGTON
LORD HORAM

1 Page 1, line 9, at end insert –

“(2) Within six months of this section coming into force, the Secretary of State must lay a report before Parliament on how the provisions under Schedule 1 are to be enforced.”

BARONESS BENNETT OF MANOR CASTLE

Baroness Bennett of Manor Castle gives notice of her intention to oppose the Question that Clause 1 stand part of the Bill.

After Clause 1

LORD HUNT OF KINGS HEATH
LORD ADONIS
BARONESS FINLAY OF LLANDAFF
BARONESS BRINTON

2 Insert the following new Clause—

“Duty to commission an independent review of the social care sector in regard to the effects of section 1

- (1) The Secretary of State must commission an independent review of the matters under subsection (3) and lay the report of the review before each House of Parliament within six months of the day on which this Act is passed.
- (2) The Secretary of State must appoint an independent panel to undertake the review.
- (3) The review under subsection (1) must consider an assessment of the effects of section 1 on—
 - (a) the social care workforce;
 - (b) the adequacy of public funding for the social care sector;
 - (c) the ability of care sector employers to improve the pay and conditions of their employees; and
 - (d) such other relevant matters as the independent panel deems appropriate.
- (4) A Minister of the Crown must, no later than six months after the report has been laid before Parliament, make arrangements for a motion relating to the report to be debated and voted on by the House of Commons and the House of Lords.”

Member’s explanatory statement

This new Clause would require an independent review of the impact of section 1 of this Act on the social care sectors to be produced and laid before Parliament.

Schedule 1

LORD PANNICK
BARONESS TAYLOR OF BOLTON
LORD BEITH

3 Page 7, line 26, leave out sub-paragraph (2)

Member’s explanatory statement

This amendment would remove the provision because of a concern about the lack of clarity.

BARONESS HAMWEE
BARONESS LUDFORD
LORD ROSSER

4 Page 8, line 19, leave out from “with” to “any” in line 20

Member’s explanatory statement

This amendment would preclude the disapplication of provisions beyond those inconsistent with provision made by or under the Immigration Acts.

5 Page 8, line 23, leave out paragraph (b)

Member's explanatory statement

This amendment would preclude the disapplication of provisions beyond those inconsistent with provision made by or under the Immigration Acts.

BARONESS HAMWEE
BARONESS LUDFORD

6 Page 8, line 31, at end insert –

“() do not arise under an EU directive as that term is defined in section 20(1) (interpretation) of the European Union (Withdrawal) Act 2018, and”

Member's explanatory statement

This amendment would ensure that rights arising under EU directives are not affected.

LORD MCCOLL OF DULWICH
THE LORD BISHOP OF BRISTOL
LORD KENNEDY OF SOUTHWARK

7 Page 8, line 35, at end insert –

“() The reference in sub-paragraph (1) to any other EU-derived rights, powers, liabilities, obligations, restrictions, remedies and procedures does not include a reference to any rights, powers, liabilities, obligations, restrictions, remedies and procedures arising under the EU Anti-Trafficking Directive (2011/36).”

Member's explanatory statement

This is a probing amendment to confirm the status of the EU Anti-Trafficking Directive under EU retained law and how it might be affected as a result of Schedule 1, paragraph 6.

Clause 2

BARONESS HAMWEE
BARONESS LUDFORD
BARONESS BENNETT OF MANOR CASTLE

8 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 or she concludes that, due to the exceptional circumstances of the case, the public interest requires deportation.
- (7) No person of any nationality is liable for deportation under section 3(5)(b) on the ground that they belong to the family of an Irish citizen who is or has been ordered to be deported, unless subsection (3)(a) is satisfied in respect of that Irish citizen.
- (8) An Irish citizen may not be deported or excluded from the United Kingdom if –
- (a) the Irish citizen was born in Northern Ireland; and
 - (b) at the time of the Irish citizen's birth, at least one of his or her parents was –
 - (i) a British citizen; or
 - (ii) an Irish citizen; or

Clause 2 - continued

- (iii) a British citizen and an Irish citizen; or
- (iv) otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.”

Member’s explanatory statement

This amendment protects the threshold for deportation of Irish citizens and ensures that no-one born in Northern Ireland may be deported.

Clause 4

BARONESS HAMWEE

BARONESS LUDFORD

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

- 9 Page 2, line 34, leave out “appropriate” and insert “necessary”

Member’s explanatory statement

This amendment would restrict the Secretary of State’s discretion and preclude her or him from making regulations which are not necessary.

- 10 Page 2, line 35, leave out “, or in connection with,”

Member’s explanatory statement

This amendment would narrow the scope of the Secretary of State’s powers as recommended by the Delegated Powers and Regulatory Reform Committee in its Forty Sixth Report.

BARONESS HAMWEE

BARONESS LUDFORD

BARONESS BENNETT OF MANOR CASTLE

- 11 Page 2, line 35, at end insert –

“(1A) The power to make regulations under subsection (1) may only be exercised to –

- (a) ensure coherence of legislation in consequence of the repeals specified in Schedule 1;
- (b) achieve consistency of treatment between people of differing nationality who are subject to immigration controls entering or applying to enter the United Kingdom on or after 1 January 2021; or
- (c) retain a right of any person who would otherwise lose that right by reason of any of the repeals specified in Schedule 1 and only where that person is present or has leave to enter or remain in the United Kingdom at the time of that repeal.”

Member’s explanatory statement

This amendment would limit the use of regulation-making powers to matters which HMG has indicated are intended.

BARONESS HAMWEE
BARONESS LUDFORD
LORD FLIGHT
BARONESS ALTMANN

12 Page 2, line 40, at end insert –

“(2A) The power to make regulations under subsection (1) does not include power to make provision inconsistent with the withdrawal agreement as defined by section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member’s explanatory statement

This amendment would ensure that the power cannot be used inconsistently with the Withdrawal Agreement.

BARONESS HAMWEE
BARONESS LUDFORD

13 Page 2, line 41, after “(1)” insert “only”

Member’s explanatory statement

This amendment would restrict the Secretary of State’s power to make regulations to the powers listed in clause 4(3).

14 Page 2, line 42, leave out “supplementary,”

Member’s explanatory statement

This amendment is to probe the need for supplementary in addition to incidental provision.

15 Page 2, line 42, leave out “transitory”

Member’s explanatory statement

This amendment is to probe the meaning of the word in the context.

16 Page 2, line 44, leave out paragraph (b)

Member’s explanatory statement

This amendment is to probe the different purposes that may be required.

17 Page 3, line 1, leave out subsection (4)

Member’s explanatory statement

To probe the need for a new power.

18 Page 3, line 2, leave out from “who” to end of line 5 and insert “may be granted leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules and who do not have such leave.”

Member’s explanatory statement

To bring the Clause into line with the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020.

19 Page 3, line 5, at end insert –

“(4A) “Residence scheme immigration rules” has the same meaning as in section 17(1) of the European Union (Withdrawal Agreement) Act 2020 (interpretation: Part 3).”

Member’s explanatory statement

To bring the Clause into line with the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020.

LORD ROSSER
LORD KENNEDY OF SOUTHWARK
BARONESS BENNETT OF MANOR CASTLE

20 Page 3, line 6, leave out subsection (5)

Member’s explanatory statement

This removes the power for regulations under this clause to make changes to fees and charges currently provided for in other primary legislation.

BARONESS HAMWEE
BARONESS LUDFORD

21 Page 3, line 6, leave out from “things)” to “by” in line 7 and insert “reduce fees or charges imposed”

Member’s explanatory statement

This amendment probes the need for this power.

22 Page 3, line 8, at end insert –

“(5A) Regulations under subsection (1) must provide that any EEA or Swiss national, and any adult dependant of any EEA or Swiss national, who has applied for asylum in the United Kingdom may apply to the Secretary of State for permission to take up employment (without limitation as to the type of employment) if a decision at first instance has not been taken on the application within 3 months of the date on which it was recorded.”

Member’s explanatory statement

This amendment would require the Secretary of State to make regulations enabling asylum seekers to work once they have been waiting for a decision on their claim for 3 months or more.

LORD FLIGHT
BARONESS HAMWEE
LORD ROSSER
BARONESS BENNETT OF MANOR CASTLE

23 Page 3, line 8, at end insert –

“(5A) Regulations made under subsection (1) must make provision to enable UK citizens falling within the personal scope of –

- (a) the Withdrawal Agreement,
- (b) the EEA EFTA separation agreement, or
- (c) the Swiss citizens’ rights agreement,

Clause 4 - continued

to return to the United Kingdom accompanied by, or to be joined in the United Kingdom by, close family members.

(5B) Regulations under subsection (1) may not impose any conditions on the entry or residence of close family members of UK citizens which could not have been imposed under EU law relating to free movement, as on the day on which this Act comes into force.

(5C) For the purposes of subsection (5A) –

“close family members” means –

(a) children (including adopted children), and

(b) other close family members where that relation subsisted on or before 31 January 2020 and has continued to subsist;

“Withdrawal Agreement”, “EEA EFTA separation agreement” and “Swiss citizens’ rights agreement” have the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

BARONESS LISTER OF BURTERSETT

BARONESS BENNETT OF MANOR CASTLE

24 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.

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

25 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.

LORD GREEN OF DEDDINGTON
BARONESS NEVILLE-ROLFE
LORD HODGSON OF ASTLEY ABBOTTS
LORD HORAM

26 Page 3, line 8, at end insert –

“(5A) Any regulations made under subsection (1) which make provision to permit EEA and Swiss nationals to enter the United Kingdom for the purpose of taking up employment must include a specified limit on the total number of such persons to be granted permission for that purpose each calendar year.”

Member’s explanatory statement

This amendment would oblige the Secretary of State to place an annual limit on the number of EEA and Swiss nationals that may be granted permission to enter the UK to take up employment when making regulations under Clause 4 (1).

27 Page 3, line 8, at end insert –

“(5A) Regulations under subsection (1) must make provision for the Resident Labour Market Test (as set out in the Immigration Rules Appendix A: attributes) to apply to job offers where a job offer forms part of the application of EEA and Swiss nationals seeking to enter the United Kingdom for the purpose of taking up employment.”

Member’s explanatory statement

This amendment would require that job offers made to EEA and Swiss nationals which form part of an application for that person to enter the United Kingdom should first be advertised in the domestic labour market in accordance with the Resident Labour Market Test.

LORD GREEN OF DEDDINGTON
LORD HODGSON OF ASTLEY ABBOTTS
LORD HORAM

28 Page 3, line 8, at end insert –

“(5A) Where regulations made under subsection (1) make provision for the minimum salary requirement for new entrants to be lower than the equivalent salary requirement for other migrants, the regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(5B) For the purposes of subsection (5A), “new entrant” means an EEA or Swiss migrant who meets one of the following criteria –

- (a) the migrant is switching from the Student or Graduate to the Skilled Worker route;
- (b) the migrant is under the age of 26 on the date of their application; or
- (c) the migrant is working towards a recognised professional qualification or moving directly into a postdoctoral position.”

Member’s explanatory statement

This amendment would require parliamentary approval of regulations which would make provision for the recruitment of new entrants to the labour market at pay rates below the general salary requirement under the new Points Based System.

BARONESS MEACHER
LORD DUBS
THE LORD BISHOP OF DURHAM

29 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 apply for asylum in the United Kingdom are granted 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.”

BARONESS LISTER OF BURTERSETT
BARONESS HAMWEE
BARONESS ALTMANN
LORD RUSSELL OF LIVERPOOL

30 Page 3, line 8, at end insert –

“() Regulations under subsection (1) must ensure that no fee is charged that may deter or prevent registration of an EEA or Swiss national as a British citizen.”

Member's explanatory statement

The amendment is to probe the impact upon rights to British citizenship of measures relating to fees (currently £1012 for a child and £1206 for an adult to register a statutory right to British citizenship) that have been introduced or are to be introduced in connection with the ending of free movement.

THE LORD BISHOP OF DURHAM
BARONESS LISTER OF BURTERSETT
LORD ALTON OF LIVERPOOL

31 Page 3, line 8, at end insert –

“(5A) Regulations under subsection (1) must make provisions for a displaced talent visa.

(5B) A person is eligible to apply for the displaced talent visa where they meet the conditions in subsection (5C).

(5C) The conditions are that the person –

(a) has been offered a job by a sponsor employer in the United Kingdom;
and

(b) is an EEA or Swiss national who has been recognised as a refugee or forcibly displaced person.”

Member's explanatory statement

This amendment creates a new visa to facilitate the entry of skilled forcibly displaced people where they have a job offer from a sponsor employer, to overcome structural barriers which prevent such people making applications currently.

BARONESS NEVILLE-ROLFE
LORD GREEN OF DEDDINGTON

32 Page 3, line 8, at end insert –

“() Regulations under subsection (1) may not make provision affecting persons who are not EEA or Swiss nationals.”

Clause 4 - continued

BARONESS HAMWEE
LORD TYLER

33 Page 3, line 8, at end insert –

“() Regulations under subsection (1) may not limit or remove the right to vote in local government elections of persons who lose rights under section 1 unless the Secretary of State has laid before each House of Parliament a draft of the proposed regulations and an assessment of their effect on the right to vote, at least three months before a statutory instrument containing the regulations is to be made.”

Member’s explanatory statement

This amendment would require the Government to allow Parliament the opportunity to consider proposals for restricting the right to vote in local elections of EU citizens.

LORD PATEL
LORD HUNT OF KINGS HEATH

34 Page 3, line 8, at end insert –

“() Prior to regulations being made under subsection (5), an impact assessment of the effects of those regulations on the recruitment of international research and innovation staff to the United Kingdom must be laid before Parliament.”

BARONESS HAMWEE
BARONESS LUDFORD
LORD ROSSER
LORD KENNEDY OF SOUTHWARK

35 Page 3, line 9, leave out subsection (6)

Member’s explanatory statement

This amendment would require that the first instrument made under Clause 4(1) be an affirmative, not made affirmative, as recommended by the Delegated Powers and Regulatory Reform Committee in its Forty Sixth Report.

BARONESS HAMWEE
BARONESS LUDFORD

36 Page 3, line 14, leave out “Any other” and insert “A”

Member’s explanatory statement

This amendment would require that the first instrument made under Clause 4(1) be an affirmative, not made affirmative, as recommended by the Delegated Powers and Regulatory Reform Committee in its Forty Sixth Report.

37 Page 3, line 19, leave out “(6) or”

Member’s explanatory statement

This amendment would require that the first instrument made under Clause 4(1) be an affirmative, not made affirmative, as recommended by the Delegated Powers and Regulatory Reform Committee in its Forty Sixth Report.

38 Page 3, line 21, leave out subsections (9) and (10)

Member's explanatory statement

This amendment would require that the first instrument made under Clause 4(1) be an affirmative, not made affirmative, as recommended by the Delegated Powers and Regulatory Reform Committee in its Forty Sixth Report.

LORD ROSSER
BARONESS HAMWEE
BARONESS MEACHER
LORD BLENCATHRA

The above-named Lords give notice of their intention to oppose the Question that Clause 4 stand part of the Bill.

After Clause 4

BARONESS HAMWEE
BARONESS LUDFORD
LORD ROSSER
LORD KENNEDY OF SOUTHWARK

39 Insert the following new Clause—

“Time limit on immigration detention for EEA and Swiss nationals

- (1) For the purpose of this section, a person (“P”) is defined as any person who, immediately before the commencement of Schedule 1, was—
 - (a) residing in the United Kingdom in accordance with the Immigration (European Economic Area) Regulations 2016 (SI 2016/1052);
 - (b) residing in the United Kingdom in accordance with a right conferred by or under any of the other instruments which is repealed by Schedule 1; or
 - (c) otherwise residing in the United Kingdom in accordance with any right derived from European Union law which continues, by virtue of section 4 of the European Union (Withdrawal) Act 2018 (saving for rights etc. under section 2(1) of the ECA), to be recognised and available in domestic law after exit day.
- (2) The Secretary of State may not detain P under a relevant detention power for a period of more than 28 days from the relevant time.
- (3) If P remains detained under a relevant detention power at the expiry of the period of 28 days then—
 - (a) the Secretary of State must 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.
- (4) 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);

After Clause 4 - continued

- (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 the UK Borders Act 2007 (detention pending deportation).
- (5) In this Act, “relevant time” means the time at which P is first detained under a relevant detention power.
- (6) This section does not apply to a person in respect of whom the Secretary of State has certified that the decision to detain is or was taken in the interests of national security.”

Member’s explanatory statement

This new Clause places a limit on the length of time EEA or Swiss nationals may be held in immigration detention of 28 days.

40

Insert the following new Clause—

“Initial detention: criteria and duration

- (1) The Secretary of State may not detain any person (“P”) to whom section (*Time limit on immigration detention for EEA and Swiss nationals*) applies under a relevant detention power, other than for the purposes of examination, unless the Secretary of State is satisfied that—
- (a) P can be shortly removed from the United Kingdom;
 - (b) detention is strictly necessary to effect P’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 P 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 (5)(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 (2)(c) of section (*Bail hearings*) and that hearing has not yet taken place.
- (3) Nothing in subsection (2) authorises 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 for EEA and Swiss nationals*).”

Member’s explanatory statement

This new Clause is linked to new Clause “Time limit on immigration detention for EEA and Swiss nationals” by specifying certain criteria that must be met during the initial detention and that the initial detention period should be no longer than 96 hours.

41 Insert the following new Clause –

“Bail hearings

- (1) This section applies to any person (“P”) to whom section (*Time limit on immigration detention for EEA and Swiss nationals*) applies and who is detained under a relevant detention power.
- (2) 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.
- (3) Subject to subsection (4), when the Secretary of State arranges a reference to the Tribunal under subsection (2)(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.
- (4) If the period of 24 hours in subsection (3) ends on a Saturday, Sunday or Bank holiday, the Tribunal must hold an initial bail hearing on the next working day.
- (5) 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.
- (6) Subject to subsection (7), 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 14 days;
 - (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.
- (7) Subsection (6) 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.
- (8) In subsection (6), “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 to the Immigration Act 2016.
- (9) In this section, “Tribunal” means the First-Tier Tribunal.
- (10) 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.

After Clause 4 - continued

- (11) 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 (10), 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 (10).
- (12) In the Immigration Act 2016, after paragraph 12(4) of Schedule 10 insert –
- “(4A) Sub-paragraph (2) above does not apply to the refusal of bail within the meaning of section (*Bail hearings*) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.”

Member's explanatory statement

This new Clause is linked to new Clauses “Time limit on immigration detention for EEA and Swiss nationals” and “Initial detention: criteria and duration” by providing for bail hearings during the initial detention period of 96 hours.

BARONESS HAMWEE
BARONESS LUDFORD
BARONESS BENNETT OF MANOR CASTLE

42 Insert the following new Clause –

“Right to rent (EEA and Swiss nationals)

- (1) The following provisions of the Immigration Act 2014 shall cease to apply to EEA and Swiss nationals and their dependants.
- (2) The provisions are sections 20 to 37 and Schedule 3 (right to rent).”

Member's explanatory statement

This new Clause would require the Secretary of State to ensure that landlords do not carry out immigration checks on EEA and Swiss nationals under the Right to Rent scheme.

BARONESS HAMWEE
BARONESS LUDFORD

43 Insert the following new Clause –

“Data protection: immigration (EEA and Swiss nationals)

- (1) The Data Protection Act 2018 is amended in accordance with subsection (2).
- (2) In paragraph 4 of Schedule 2, after sub-paragraph (4) insert –
 - “(5) This paragraph does not apply if the data subject is an EEA or Swiss national.”

Member's explanatory statement

This new Clause would ensure that the immigration exemption in the Data Protection Act 2018 does not apply to EEA or Swiss nationals.

BARONESS HAMWEE
BARONESS LUDFORD
BARONESS ALTMANN

44 Insert the following new Clause—

“Late applications to EU Settlement Scheme

- (1) The Secretary of State must, before 30 June 2021, publish a report setting out proposals for dealing with late applications to the EU Settlement Scheme and a motion to approve the report must be debated by both Houses of Parliament.
- (2) Until the report has been debated and approved by both Houses of Parliament, the EU Settlement Scheme must remain open for applications and the Secretary of State must extend the deadline for applications accordingly.
- (3) “The EU Settlement Scheme” means the scheme for settled or pre-settled status under Appendix EU of the Immigration Rules.”

Member’s explanatory statement

The new Clause will ensure that the EU Settlement Scheme will remain open until such time as the Minister has published proposals as to how to deal with late applications and that report has been approved by Parliament.

BARONESS HAMWEE
BARONESS LUDFORD

45 Insert the following new Clause—

“Notification to apply for settled status

- (1) The Secretary of State must notify any person granted pre-settled status under the EU Settlement Scheme of the requirement to apply for settled status.
- (2) The notifications must be given—
 - (a) in the case of a person granted pre-settled status before this Act is passed, immediately;
 - (b) in the case of a person granted pre-settled status after this Act is passed, within 28 days after the grant of pre-settled status; and
 - (c) not less than six months before the person’s entitlement to enter and remain in the United Kingdom as a person with pre-settled status expires.
- (3) The Secretary of State must amend the EU Settlement Scheme to ensure that pre-settled status enables the grantee to use that status to demonstrate the right to reside in the United Kingdom for the purposes of accessing social assistance and housing.
- (4) Nothing in this section shall entitle a person to be granted settled status if that person was not entitled to it prior to the coming into force of this section.
- (5) “The EU Settlement Scheme” means the scheme for settled status or pre-settled status under Appendix EU of the Immigration Rules and the terms “settled status” and “pre-settled status” shall be interpreted accordingly.”

Member’s explanatory statement

This new Clause would require that persons granted pre-settled status are reminded of the need to apply for settled status.

BARONESS HAMWEE
 BARONESS LUDFORD
 BARONESS WHITAKER
 LORD BOURNE OF ABERYSTWYTH

46 Insert the following new Clause—

“Applications for citizenship from people with settled status

- (1) In the event that a person with settled status granted pursuant to the EU Settlement Scheme applies for British Citizenship, the period of residence in the United Kingdom which was the qualification for settled status shall be treated as not in breach of any provisions, including the Immigration Acts and the Immigration Rules.
- (2) “The EU Settlement Scheme” means the scheme for settled status or pre-settled status under Appendix EU of the Immigration Rules and the term “settled status” shall be interpreted accordingly.”

Member’s explanatory statement

This new Clause would ensure that persons who qualified for settled status cannot then be refused citizenship on ground that their residence during the qualifying period for settled status was in breach of immigration laws (for example, because of a period without Comprehensive Sickness Insurance).

BARONESS HAMWEE
 BARONESS LUDFORD
 BARONESS MEACHER
 BARONESS ALTMANN

47 Insert the following new Clause—

“Health and social care visa

- (1) The Secretary of State must make provision by regulations for a visa for EEA and Swiss citizens applying for leave to enter and remain in the United Kingdom for the purposes of work in the health and social care sector and their dependants.
- (2) The regulations must provide for application fees to be at 50% of the rate from time to time payable by applicants for a Tier 2 (General) visa or dependants.
- (3) Applicants and their dependants may not be required to pay an immigration health charge.
- (4) No immigration skills charge may be payable in respect of such applicants pursuant to the Immigration Skills Charge Regulations 2017 (SI 2017/499).
- (5) In drafting the regulations, the Secretary of State must consult such persons as he or she considers appropriate.
- (6) Regulations under subsection (1) must be laid before Parliament.
- (7) The regulations must come into effect on 1 January 2021.”

Member’s explanatory statement

The new Clause requires the Secretary of State to make provisions for a visa for EEA and Swiss citizens applying for leave to enter and remain in the United Kingdom for the purpose of working in the health and social care sector.

LORD DUBS
BARONESS HAMWEE
LORD KERR OF KINLOCHARD
THE LORD BISHOP OF DURHAM

48 Insert the following new Clause—

“Leave to enter: family unity and claims for asylum

- (1) For at least such time as a relevant agreement has not been concluded and implemented, a person to whom this section applies shall be granted leave to enter the United Kingdom for the purpose of making a claim for asylum.
- (2) This section applies to a person who—
 - (a) is on the territory of any relevant Member State; and
 - (b) makes an application for leave to enter for the purpose of making a claim for asylum; and
 - (c) would, had that person made an application for international protection in that Member State, have been eligible for transfer to the United Kingdom under Regulation (EU) No. 604/2013 by reason of a relevant provision if the United Kingdom remained a party to that Regulation.
- (3) An application for leave to enter under subsection (2)(c) shall be made in such manner as the Secretary of State may prescribe save that—
 - (a) there shall be no fee for the making of such an application and no requirements may be prescribed that are unreasonable having regard to the purposes of this section and the circumstances of persons to whom it applies;
 - (b) in relation to such applications, the Secretary of State shall make arrangements to ensure that applicants receive a decision regarding their application no later than two months from the date of submission of the application.
- (4) A claim for asylum made under subsection (2)(b) must remain pending throughout such time as no decision has been made on it or during which an appeal could be brought within such time as may be prescribed for the bringing of any appeal against a decision made on a claim or during which any such appeal remains pending for the purposes of section 104 of the Nationality, Immigration and Asylum Act 2002 (pending appeal); and a claim for asylum remains one on which no decision has been made during such time as the claim has been made to the Secretary of State and has not been granted, refused, abandoned or withdrawn.
- (5) The Secretary of State must, within six months of the day on which this Act is passed, lay before both Houses of Parliament a strategy for ensuring that unaccompanied children on the territory of a relevant Member State continue to be relocated to the United Kingdom, if it is in the child's best interests.
- (6) For the purposes of this section—

“applicant” means a person who makes an application for leave to enter under this section;

“claim for asylum” means a claim for leave to enter or remain as a refugee or as a person eligible for a grant of humanitarian protection;

After Clause 4 - continued

“Regulation (EU) No. 604/2013” means Regulation (EU) No. 604/2013 of the European Parliament and of the Council including the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast);

“relevant agreement” means an agreement negotiated by a Minister of the Crown, on behalf of the United Kingdom, with the European Union in accordance with which there is provision for the transfer of a person who has made an application for asylum in a Member State of the European Union to the United Kingdom and that provision is no less extensive than Regulation (EU) No. 604/2013 insofar as that regulation operated to enable the transfer of a person to join a child, sibling, parent or other family member or relative in the United Kingdom before exit day;

“relevant Member State” means a Member State for the purposes of Regulation (EU) No. 604/2013;

“relevant provision” means any of the following articles of Regulation (EU) No. 604/2013—

- (a) Article 8,
- (b) Article 9,
- (c) Article 10,
- (d) Article 16,
- (e) Article 17.”

LORD OATES

LORD POLAK

LORD KERSLAKE

LORD MCNICOL OF WEST KILBRIDE

49

Insert the following new Clause—

“EU Settlement Scheme: physical documented proof

- (1) The Secretary of State must issue physical proof confirming pre-settled status or settled status to all EEA and Swiss nationals and their families who have been granted such status under the EU Settlement Scheme and who request such proof.
- (2) No fee may be charged for issuing physical proof under this section.”

Member’s explanatory statement

This new Clause seeks to provide physical proof of settled and pre-settled status to those who make a successful application through the scheme, providing physical evidence of their migration status.

BARONESS HAMWEE
BARONESS LUDFORD
BARONESS BENNETT OF MANOR CASTLE

50 Insert the following new Clause—

“Right to services (EEA and Swiss nationals)

- (1) The following provisions of the Immigration Act 2014 do not apply to EEA and Swiss nationals and their dependants.
- (2) The provisions are—
 - (a) sections 38 and 39 (immigration health charge);
 - (b) sections 40 to 43 (bank accounts);
 - (c) sections 46 and 47 (driving licences).
- (3) Sections 15 to 26 (employment) of the Immigration, Asylum and Nationality Act 2006 do not apply to EEA and Swiss nationals and their dependants.”

Member’s explanatory statement

This new Clause would exempt EEA and Swiss nationals from various provisions of the “hostile environment” / “compliant environment”.

LORD ROSSER
LORD KENNEDY OF SOUTHWARK
BARONESS BENNETT OF MANOR CASTLE

51 Insert the following new Clause—

“EU Settlement Scheme: physical documented proof

- (1) The Secretary of State must make provision to ensure that EEA and Swiss nationals and their family members who are granted settled status and pre-settled status receive a physical document as proof of that status.
- (2) No fee may be charged for issuing physical proof of status under this section.”

Member’s explanatory statement

This new Clause seeks to provide physical proof of settled and pre-settled status to those who make a successful application through the scheme and without any need to request this proof, providing physical evidence of their migration status.

LORD ROSSER
LORD KENNEDY OF SOUTHWARK

52 Insert the following new Clause—

“Report on status of EEA and Swiss nationals after the transition period

- (1) Part 1 of this Act may not come into force until a Minister of the Crown has laid a report before Parliament setting out the impact of this Act on EEA and Swiss nationals in the United Kingdom.
- (2) A report under subsection (1) must clarify the position of EEA and Swiss nationals in the United Kingdom during the period between the end of the transition period and the deadline for applying to the EU Settlement Scheme.
- (3) A report under subsection (1) must include, but not be limited to, what rights EEA and Swiss nationals resident in the United Kingdom after 31 December 2020 have to—

After Clause 4 - continued

- (a) work in the United Kingdom;
- (b) use the NHS without charge;
- (c) enrol in education or continue studying;
- (d) access public funds such as benefits and pensions; and
- (e) travel into and out of the United Kingdom.”

Member’s explanatory statement

This new Clause would require Government to provide clarity on the rights of EU nationals who are entitled to apply for pre-settled or settled status but have not yet done so, in the grace period between the end of the transition period and the closure of the EU Settlement Scheme.

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

BARONESS LISTER OF BURTERSETT

BARONESS BENNETT OF MANOR CASTLE

53 Insert the following new Clause –

“Exemption from no recourse to public funds

- (1) This section applies during the current Covid-19 pandemic, as defined by the World Health Organisation on 11 March 2020.
- (2) Section 3(1)(c)(i) and (ii) of the Immigration Act 1971 cannot be applied to persons who have lost rights because of section 1 of and Schedule 1 to this Act.
- (3) This section may not be disapplied unless a resolution is passed by each House of Parliament.”

Member’s explanatory statement

This new Clause would delay application of No Recourse to Public Funds rules during the current pandemic and until such time as Parliament decides.

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

54 Insert the following new Clause –

“Immigration health charge: exemption for EEA and Swiss citizens who are healthcare and social workers

- (1) The Immigration Act 2014 is amended as follows.
- (2) After section 38 (immigration health charge) insert –

“38A Health care workers and social workers from the EEA or Switzerland

- (1) Any person who would have had the right of free movement before section 1 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 came into force is exempt from the immigration health charge if that person is –
 - (a) a healthcare worker; or
 - (b) a social care worker.
- (2) The exemption applies to a person who is a family member or dependant of an EEA or Swiss national who meets the condition in subsection (1)(a) or (b).

After Clause 4 - continued

- (3) In this section—
- (a) “healthcare worker” means a worker who works in a healthcare setting within or outside the NHS who may come into contact with patients, including clinical administration staff and care home staff;
 - (b) “social care worker” means a worker as defined by section 55(2) of the Care Standards Act 2000 (interpretation).”

Member’s explanatory statement

This new Clause would ensure that EEA and Swiss nationals coming to the UK to work as a healthcare or social care worker would be exempt from the Immigration Health Charge.

55 Insert the following new Clause—

“Tier 2 Immigration skills charge

No Tier 2 Immigration skills charge is payable by an individual who is—

- (a) an EEA or Swiss national, and
- (b) comes to the United Kingdom in order to work for the National Health Service.”

Member’s explanatory statement

This new Clause would exempt NHS employers from having to pay the immigration skills charge on members of staff who are EEA and Swiss nationals.

LORD DUBS
THE EARL OF DUNDEE
LORD KERR OF KINLOCHARD
BARONESS HAMWEE

56 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.

After Clause 4 - continued

- (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).
- (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
BARONESS HAMWEE
BARONESS BRINTON

57 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.
- (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.

LORD ROSSER
LORD KENNEDY OF SOUTHWARK
BARONESS RITCHIE OF DOWNPATRICK

58 Insert the following new Clause—

“Duty to report on the reciprocal rights of the Common Travel Area

- (1) The Secretary of State must publish a report setting out in detail the reciprocal rights of citizens under the Common Travel Area within the period of 30 days beginning with the day on which this Act is passed.
- (2) The report under subsection (1) must specify—
 - (a) the scope of the reciprocal rights of citizens under the Common Travel Area;
 - (b) the scope of retained EU rights and benefits under the EU Settlement Scheme; and
 - (c) the correlation and differences between (a) and (b).
- (3) The Secretary of State must lay a copy of the report before Parliament.”

Member’s explanatory statement

This new Clause aims to ensure that Ministers set out in detail the scope of ‘reciprocal rights’ of the CTA, and compare and contrast them with rights that can be retained under Part Two of the Withdrawal Agreement (as provided for under the EU Settlement Scheme).

LORD ROSSER
LORD KENNEDY OF SOUTHWARK

59 Insert the following new Clause—

“Annual report on skills and the labour market

- (1) Within the period of six months beginning with the day on which any provision of this Part comes into force, and every 12 months thereafter, the Secretary of State must publish and lay a report before Parliament setting out how changes made to the Immigration Rules for EEA and Swiss nationals have affected skill shortages in the labour market.
- (2) A Minister of the Crown must, not later than a month after the report has been laid before Parliament, table a motion in the House of Commons in relation to the report.
- (3) This section expires at the end of the period of five years beginning with the day on which it comes into force.”

BARONESS PRASHAR
BARONESS GARDEN OF FROGNAL
BARONESS MORRIS OF YARDLEY
BARONESS FOOKES

60 Insert the following new Clause—

“Entry of EEA and Swiss minors using national identity cards

- (1) The Secretary of State must allow minors who are nationals of any EEA State or Switzerland to enter the United Kingdom for a period not exceeding 30 days if they produce a valid national identity card issued by the relevant authority in their home country.

After Clause 4 - continued

- (2) No minors entering the United Kingdom on the terms set out under subsection (1) may do so on more than one occasion in any calendar year.
- (3) In this section—
- “minors” means persons who are under the age of 18 on the date of their arrival in the United Kingdom;
- “relevant authority” means the body within each EEA State or Switzerland designated as responsible for issuing valid national identity cards to the citizens of that country.”

Member’s explanatory statement

This new Clause narrows the existing ability of EEA citizens or Swiss nationals to enter the United Kingdom so as only to include persons under the age of 18 on the date of their arrival here and for a stay that may not exceed 30 days in any calendar year.

LORD PADDICK
BARONESS HAMWEE

61 Insert the following new Clause—

“Amendment to the Immigration (Leave to Enter and Remain) Order 2000

- (1) The Immigration (Leave to Enter and Remain) Order 2000 (S.I. 2000/1161) is amended as follows.
- (2) In article 8B(2)(a), after the words “is a national of” insert the words “any EEA State, Switzerland,”.”

Member’s explanatory statement

This new Clause would ensure that EEA and Swiss nationals have the same right to obtain leave to enter the United Kingdom by passing through an automated gate as nationals of Australia, Canada, Japan, New Zealand, Singapore, South Korea or the US.

BARONESS HAMWEE
BARONESS BENNETT OF MANOR CASTLE

62 Insert the following new Clause—

“Refugee family reunion

The Secretary of State must make rules under section 3(2) of the Immigration Act 1971 to allow any EEA or Swiss citizen 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 is intended to probe the need to expand family reunion rules.

LORD ROSSER
LORD KENNEDY OF SOUTHWARK
BARONESS LISTER OF BURTERSETT

63 Insert the following new Clause –

“Duty to raise awareness of citizenship rights

- (1) The Secretary of State must take steps to raise awareness of rights under the British Nationality Act 1981 to register as a British citizen to persons to whom subsection (2) applies.
- (2) This section applies to any person who has lost rights under section 1 and Schedule 1.
- (3) Within six months of the day on which this Act is passed, the Secretary of State must publish a report detailing the steps taken to raise awareness of rights under subsection (1), and lay it before Parliament.”

THE EARL OF DUNDEE
LORD DUBS
BARONESS ALTMANN

64 Insert the following new Clause –

“Leave to enter on humanitarian grounds

- (1) The Secretary of State must by regulations made by statutory instrument make provision for a visa on humanitarian grounds.
- (2) A person is eligible for a visa on humanitarian grounds if the person is an EEA or Swiss national and seeks leave to enter or remain in the United Kingdom and meets any of the conditions in subsection (3).
- (3) The conditions are –
 - (a) the person requires medical treatment provided in the United Kingdom, where such treatment is not available to that person at the place where that person resides;
 - (b) the person is an orphaned child and a foster family or other foster care is available to the child in the United Kingdom and leave to enter or remain in the United Kingdom is in the child's best interests; or
 - (c) the person is a child who is a dependant of a person who has been granted leave to enter or remain in the United Kingdom.
- (4) The Secretary of State may by regulations made by statutory instrument add further conditions to those in subsection (3).
- (5) 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 by virtue of a visa on humanitarian grounds provided for in regulations under this section.
- (6) Regulations under subsection (1) must come into effect no later than the day following IP completion day.

After Clause 4 - continued

- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) In this section, “IP completion day” has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

BARONESS JOLLY

65 Insert the following new Clause—

“Immigration health surcharge: exemption for international volunteers

A charge under section 38 of the Immigration Act 2014 (immigration health charge) may not be imposed on EEA and Swiss nationals who have leave to enter or remain in the United Kingdom through a visa to work voluntarily for a period of no more than 12 months for a registered UK charity advancing the charity’s primary purpose.”

Member’s explanatory statement

This new Clause would ensure that international volunteers, including those working in health and social care, will be exempt from paying the immigration health surcharge.

BARONESS MASHAM OF ILTON
BARONESS FINLAY OF LLANDAFF
BARONESS THOMAS OF WINCHESTER
BARONESS ALTMANN

66 Insert the following new Clause—

“Fast-track health and social care visa

- (1) The Secretary of State must provide by regulations made by statutory instrument for the introduction of a fast-track health and social care visa for a relevant person who provides personal care for severely disabled people in the United Kingdom.
- (2) In this section, “fast-track” means processed by UK Visas and Immigration within three weeks from the day on which the applicant provides their biometric information, and “relevant person” means an EEA or Swiss national who immediately prior to the commencement of section 1 and Schedule 1 had the right of free movement into the United Kingdom.”

Member’s explanatory statement

This new Clause would provide for the introduction of a fast-track health and social care visa for a person who provides personal care for severely disabled people. The visa would be limited to EEA or Swiss nationals who immediately prior to the commencement of section 1 and Schedule 1 had the right of free movement into the UK.

BARONESS LISTER OF BURTERSETT
BARONESS HAMWEE
THE EARL OF DUNDEE
LORD ALTON OF LIVERPOOL

67 Insert the following new Clause—

“Duty regarding rights to British citizenship

- (1) It is the duty of the Secretary of State to encourage, promote and facilitate awareness and exercise of rights to British citizenship among EEA and Swiss nationals.
- (2) In fulfilment of that duty, the Secretary of State—
 - (a) must take all reasonable steps to ensure that all EEA and Swiss nationals with rights to British citizenship are able to exercise those rights;
 - (b) must make arrangements, including with local authorities, to ensure that all children of EEA and Swiss nationals in a local authority area are aware of their rights to British citizenship and of the means by which to exercise those rights;
 - (c) must, when considering any application for confirmation or registration of British citizenship, have regard to information held by or available to the Secretary of State that would demonstrate the applicant to be a British citizen or entitled to that citizenship; and
 - (d) must ensure that anything done by the Secretary of State in fulfilment of responsibilities or exercise of powers under this Act or the European Union (Withdrawal Agreement) Act 2020 does not impede that duty.
- (3) For the purposes of this section—

“rights to British citizenship” means rights of acquisition of British citizenship by birth, adoption or registration under the British Nationality Act 1981; and

“to exercise those rights” means to be registered as a British citizen on the making of an application under the British Nationality Act 1981 or to obtain documentation from the Secretary of State confirming British citizenship (including by receipt of a passport) on the making of an application to the Secretary of State.”

Member’s explanatory statement

This amendment is to probe the case for a statutory duty to encourage, promote and facilitate the exercise of people’s rights to British citizenship and to require the Secretary of State to ensure that she does not exercise certain of her powers and responsibilities in any way that may impede the exercise of those rights.

BARONESS LISTER OF BURTERSETT
BARONESS HAMWEE
THE EARL OF DUNDEE
LORD RAMSBOTHAM

68 Insert the following new Clause—

“Registration as a British citizen by EEA and Swiss nationals

- (1) No person, who has at any time exercised any of the rights 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 which Schedule 1 makes provision to end may be charged a fee to register as a British citizen if that child is being looked after by a local authority.
- (3) No child of a person who has at any time exercised any of the rights 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 amendment is to probe how to secure rights to British citizenship where rights to free movement are being ended by prohibiting any charge above administrative cost and the application of such a charge to children looked after by a local authority.

LORD CLEMENT-JONES
BARONESS HAMWEE
THE EARL OF CLANCARTY
BARONESS BULL

69 Insert the following new Clause—

“Report on free movement of persons involved in arts and entertainment activities

- (1) The Secretary of State must, within one month of the passing of this Act, lay before both Houses of Parliament a report on the Government’s assessment of the impact on musicians, actors and others involved in arts and entertainment activities, including broadcasting, of the ending of rights to free movement of persons under retained EU law.
- (2) A report laid under this section must set out the routes by which EEA and Swiss nationals who work as musicians, actors or in other arts and entertainment activities, including broadcasting, can obtain permission to work in the United Kingdom following the commencement of this Act.
- (3) The report must also set out, for purposes of comparison, details of any agreements made by the Secretary of State and the EU concerning the continued ability of British musicians, actors and others involved in arts and entertainment activities, including broadcasting, to work in EU member states.”

After Clause 4 - continued

LORD RAMSBOTHAM
 BARONESS HAMWEE
 BARONESS LISTER OF BURTERSETT
 BARONESS JONES OF MOULSECOOMB

70 Insert the following new Clause—

“Immigration detention: removal from association

- (1) Any affected person detained in a removal centre must not be involuntarily removed from association unless it is—
 - (a) reasonably necessary to do so to protect that person or another person from immediate harm; and
 - (b) for no longer than is necessary for this purpose and, in any case, for no longer than 24 hours.
- (2) In this section—

“affected person” means any person whose rights are affected by repeal of legislation by virtue of this Act;

“removal from association” means any restriction on a person associating with others that is not common to all persons then detained at the same removal centre, including but not limited to removal from association under rule 40 of the Detention Centre Rules 2001 (S.I. 2001/238) or being put in temporary confinement under rule 42 of those rules.”

BARONESS BENNETT OF MANOR CASTLE

71 Insert the following new Clause—

“Hostile environment

- (1) For the purpose of this section, a person (“P”) is defined as any person who, immediately before the commencement of Schedule 1, was—
 - (a) residing in the United Kingdom in accordance with the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052);
 - (b) residing in the United Kingdom in accordance with a right conferred by or under any of the other instruments repealed by Schedule 1; or
 - (c) otherwise residing in the United Kingdom in accordance with any right derived from European Union law which continues, by virtue of section 4 of the European Union (Withdrawal) Act 2018, to be recognised and available in domestic law after exit day.
- (2) Regulations under section 4(1) may not be made until the Government has brought forward legislative measures to ensure that hostile environment measures do not apply to P, specifically—
 - (a) sections 20 to 43 and 46 to 47 of the Immigration Act 2014;
 - (b) sections 34 to 45 of the Immigration Act 2016; and
 - (c) paragraph 4 of Schedule 2 to the Data Protection Act 2018.”

Member’s explanatory statement

This new Clause seeks to limit the application of the hostile environment.

72 Insert the following new Clause –

“Data protection

- (1) For the purpose of this section, a person (“P”) is defined as any person who, immediately before the commencement of Schedule 1, was –
 - (a) residing in the United Kingdom in accordance with the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052);
 - (b) residing in the United Kingdom in accordance with a right conferred by or under any of the other instruments repealed by Schedule 1; or
 - (c) otherwise residing in the United Kingdom in accordance with any right derived from European Union law which continues, by virtue of section 4 of the European Union (Withdrawal) Act 2018, to be recognised and available in domestic law after exit day.
- (2) Regulations under section 4(1) may not be made until the Government has made provision to ensure that P has safe and confidential access to essential public services by ensuring the Secretary of State, or any other individual or body on his or her behalf, must not process personal data, by any means, for the purposes of immigration control or enforcement, where that personal data has been collected in the course of the data subject accessing or attempting to access the public services identified in subsection (3).
- (3) For the purposes of subsection (2), the relevant public services are –
 - (a) primary and secondary healthcare services;
 - (b) primary and secondary education; and
 - (c) the reporting of a crime by the data subject or, where the data subject is a witness to, or the victim of, the crime, any investigation or prosecution of it.
- (4) The prohibitions contained in subsections (2) and (3) do not apply where the data subject has given his or her explicit and informed consent to the disclosure of the personal data, for the purposes of immigration enforcement.”

Member’s explanatory statement

This new Clause seeks to limit use of data gathered by key public services for immigration enforcement control.

73 Insert the following new Clause –

“Recourse to public funds

- (1) For the purpose of this section, a person (“P”) is defined as any person who, immediately before the commencement of Schedule 1, was –
 - (a) residing in the United Kingdom in accordance with the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052);
 - (b) residing in the United Kingdom in accordance with a right conferred by or under any of the other instruments repealed by Schedule 1; or
 - (c) otherwise residing in the United Kingdom in accordance with any right derived from European Union law which continues, by virtue of section 4 of the European Union (Withdrawal) Act 2018, to be recognised and available in domestic law after exit day.

After Clause 4 - continued

- (2) Regulations under section 4(1) may not be made until the Government has brought forward legislative measures to ensure that P can access social security benefits, where P is habitually resident, including repealing or amending the following provisions insofar as they relate to P—
- (a) section 3(1)(c)(ii) of the Immigration Act 1971;
 - (b) section 115 of the Immigration and Asylum Act 1999;
 - (c) any provision in subordinate legislation, which imposes a “no recourse to public funds” condition on grants of limited leave to enter or remain; and
 - (d) any other enactment or power exercised under any other enactment, which makes immigration status a condition to access social security benefits.”

Member’s explanatory statement

This new Clause seeks to restrict measures prohibiting access to public funds.

BARONESS HAMWEE
BARONESS LUDFORD

74 Insert the following new Clause—

“Data protection

- (1) A third party given access to the EU Settlement Scheme to check the immigration status of a person for a specific purpose may not be allowed to apply such access for any other purpose.
- (2) A third party who is enabled to access the EU Settlement Scheme to check the immigration status of a person for a specific purpose may use the information obtained only for that purpose.
- (3) “A third party” means any person other than—
 - (a) the subject of the check; or
 - (b) a person authorised by the Secretary of State.”

THE EARL OF CLANCARTY

75 Insert the following new Clause—

“Duty to report on the arrangements for visitors for business purposes

- (1) The Secretary of State must, within six months of this Act coming into force, publish, and lay before each House of Parliament, a report evaluating the effects of this Act on the arrangements for temporary entry and stay of EEA and Swiss nationals for business purposes.
- (2) That report must include consideration of—
 - (a) the qualification requirements for a short-term business visitor;
 - (b) the activities that can be undertaken by a short-term business visitor; and
 - (c) for purposes of comparison, the reciprocal arrangements for UK nationals travelling to the EEA and Switzerland for business purposes.”

Member's explanatory statement

This clause would require the Government to consider the requirements of short-term EEA and Swiss national visitors for business purposes.

THE EARL OF DUNDEE
LORD DUBS

76 Insert the following new Clause –

“Leave to enter for education, research, training and student exchange

- (1) The Secretary of State must by regulations make provision for a visa for education, research, training and student exchange.
- (2) A person is eligible for a visa under subsection (1) if the person is an EEA or Swiss national who seeks leave to enter or remain in the United Kingdom and meets any of the conditions in subsection (3).
- (3) The conditions are that the person –
 - (a) is admitted by a school, institution or company providing vocational training, a higher education institution, or a research institution in the United Kingdom;
 - (b) is enrolled in an institution of higher education in a country party to the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, and undertakes some or all of the person's studies or research at a higher education institution in the United Kingdom;
 - (c) takes part in an international student exchange programme established in the United Kingdom.
- (4) The Secretary of State may introduce further additional or alternative conditions to those in subsection (3).
- (5) The Secretary of State must not introduce language proficiency as a condition beyond what is required by the school, institution or company providing vocational training, higher education institution, research institution or student exchange programme.
- (6) Regulations under subsection (1) must come into effect before the day following IP completion day.
- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) In this section “IP completion day” has the meaning given in section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

LORD HODGSON OF ASTLEY ABBOTTS
LORD HORAM

77 Insert the following new Clause –

“Charter for EU Immigration and Demographic Change

- (1) The Secretary of State must prepare a document, to be known as the Charter for EU Immigration and Demographic Change, explaining the formulation of the policies of Her Majesty's Government relating to immigration from the European Union.

After Clause 4 - continued

- (2) The Charter must, in particular, set out—
 - (a) the Government’s demographic objectives in relation to such immigration, and
 - (b) the means by which such objectives will be attained.
- (3) The Government must lay the Charter before Parliament within one year of the commencement of this Act.”

LORD HODGSON OF ASTLEY ABBOTTS

78

Insert the following new Clause—

“Office for EU Immigration and Demographic Change

- (1) There is to be a body corporate called the Office for EU Immigration and Demographic Change.
- (2) It is the duty of the Office to examine and report on the impact of the Government’s demographic objectives in relation to immigration from the European Union, as set out in the Charter for EU Immigration and Demographic Change required by section (*Charter for EU Immigration and Demographic Change*).
- (3) The Office must report at least annually.
- (4) The Office’s reports must include assessments of—
 - (a) the environmental, ecological and societal impacts of the Government’s demographic objectives in relation to immigration from the European Union, as set out in the Charter for EU Immigration and Demographic Change;
 - (b) the extent to which those objectives have been achieved; and
 - (c) the main risks to their achievement in the future in relation to immigration from the European Union.
- (5) The Office has complete discretion in the performance of its duties, except that it—
 - (a) must perform its duties objectively, transparently and impartially; and
 - (b) may not consider the impact of any alternative policies.”

Member’s explanatory statement

This amendment would establish an independent body to assess and report on the overall impact on the country of the Government’s demographic objectives in relation to the EU.

BARONESS BENNETT OF MANOR CASTLE

79

Insert the following new Clause—

“Family reunion

- (1) A person shall be granted leave to enter and remain in the United Kingdom if the criteria set out in subsections (2) and (3) are met.
- (2) The person is a Swiss or EEA national.
- (3) The person—
 - (a) has a child with another person who is a British citizen or has leave to remain in the United Kingdom, or

After Clause 4 - continued

(b) is a child of another person who is a British citizen or has leave to remain in the United Kingdom.

- (4) Immigration rules may make provision to implement this section but may not impose a requirement that the relevant person or either or both parents, separately or combined, have a minimum level of income or assets.”

BARONESS HAMWEE
BARONESS LUDFORD

80 Insert the following new Clause –

“Protections under the European Union (Withdrawal Agreement) Act 2020

At least three months before the commencement of Part 1 for any purpose, the Secretary of State must publish drafts of such statutory instruments as are proposed to be laid under the powers contained in the European Union (Withdrawal Agreement) Act 2020 to protect the rights of EEA citizens and their family members’ rights of residence, entry and exit until 30 June 2021.”

Member’s explanatory statement

This amendment aims to clarify the rights that would be available to EEA citizens during the ‘grace period’ under the European Union (Withdrawal Agreement) Act.

LORD MORROW

81 Insert the following new Clause –

“Requirements before making and amending immigration rules

Prior to making any regulations under subsection 4(1) to amend or create immigration rules the Secretary of State must lay a report before each House of Parliament assessing the impact of the regulations on victims of modern slavery.”

Member’s explanatory statement

This amendment would require the Government to publish an assessment of the impact of changes to the Immigration Rules arising from this Bill on victims of modern slavery.

LORD PATEL

82 Insert the following new Clause –

“Duty to report on migratory options for health and social care workers who are ineligible for the skilled worker route

- (1) The Secretary of State must publish a report, within the period of 30 days beginning with the day on which this Act is passed, setting out in detail the options available for migration to the United Kingdom for overseas health and social care workers –
- (a) who wish to live in the United Kingdom and work there as health and social care workers,
 - (b) whose ability to do so is ended by section 1, and
 - (c) who are not eligible for the skilled worker scheme.
- (2) The Secretary of State must lay a copy of the report before Parliament.”

Clause 5

BARONESS HAMWEE
BARONESS LUDFORD
LORD FLIGHT
BARONESS ALTMANN

83 Page 4, line 2, at end insert –

“(2A) The power to make regulations under subsection (1) does not include power to make provision inconsistent with the withdrawal agreement as defined by section 39 of the European Union (Withdrawal Agreement) Act 2020 (interpretation).”

Member’s explanatory statement

This amendment would ensure that the power cannot be used inconsistently with the Withdrawal Agreement.

BARONESS HAMWEE
BARONESS LUDFORD

84 Page 4, line 3, after “(1)” insert “only”

Member’s explanatory statement

This amendment would restrict the Secretary of State’s power to make regulations to the powers listed in Clause 5(3).

85 Page 4, line 4, leave out paragraph (a)

Member’s explanatory statement

This amendment would preclude the power of the Secretary of State to distinguish between recipients of pensions and other benefits on the basis of their nationality or residence in a particular state.

86 Page 4, line 8, leave out paragraph (b)

Member’s explanatory statement

This amendment is to probe the different purposes that may be required.

87 Page 4, line 9, leave out “supplementary,”

Member’s explanatory statement

This amendment is to probe the need for supplementary in addition to incidental provision.

88 Page 4, line 10, leave out “transitory”

Member’s explanatory statement

This amendment is to probe the meaning of the word in the context.

89 Page 4, line 11, leave out paragraph (d)

Member’s explanatory statement

This amendment is to probe the use of ministerial discretion.

90 Page 4, line 13, leave out subsection (4)

Member's explanatory statement

This amendment is to probe the need for a new power.

BARONESS SHERLOCK
LORD ROSSER

91 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.

BARONESS HAMWEE
BARONESS LUDFORD

92 Page 4, line 22, leave out from “with” to “provision” in line 23

Member's explanatory statement

This amendment is to probe the extent of the cessation of EU-derived rights.

BARONESS HAMWEE
BARONESS LUDFORD
BARONESS SHERLOCK
LORD ROSSER

The above-named Lords give notice of their intention to oppose the Question that Clause 5 stand part of the Bill.

Member's explanatory statement

This would leave out the Clause as an inappropriate delegation of power, as recommended by the Delegated Powers and Regulatory Reform Committee in its Forty Sixth Report.

Before Clause 6

BARONESS JONES OF MOULSECOOMB

93 Insert the following new Clause –

“Duty to commission an independent evaluation: health and social care sectors

- (1) The Secretary of State must commission an independent evaluation of the matters under subsection (5) and lay a report of the evaluation before Parliament within one year of this Part coming into force.
- (2) The Secretary of State must appoint an independent person to undertake the evaluation (“the independent evaluator”).
- (3) In this section, “independent person” means a person who is independent of Her Majesty’s Government.

Before Clause 6 - continued

- (4) No person may be appointed under subsection (2) unless their appointment has been approved by –
 - (a) the relevant Scottish Ministers;
 - (b) the relevant Welsh Ministers; and
 - (c) the relevant Northern Ireland Ministers.
- (5) The evaluation under subsection (1) must consider an assessment of the effects of this Act on –
 - (a) the health and social care workforce;
 - (b) the efficiency and effectiveness of the health and social care sectors;
 - (c) the adequacy of public funding for the health and social care sectors; and
 - (d) such other relevant matters as the independent evaluator deems appropriate.
- (6) In undertaking the evaluation, the independent evaluator must consult –
 - (a) the Secretary of State;
 - (b) the relevant Scottish Ministers;
 - (c) the relevant Welsh Ministers;
 - (d) the relevant Northern Ireland Ministers;
 - (e) providers of health and social care services;
 - (f) persons requiring health and social care services;
 - (g) representatives of persons requiring health and social care services; and
 - (h) such other relevant persons as the independent evaluator deems appropriate.
- (7) The independent evaluator must submit the report of the evaluation to the Secretary of State.
- (8) A Minister of the Crown must, within the period of six months beginning with the day on which the report is laid before Parliament, make arrangements for –
 - (a) a motion relating to the report to be debated and voted upon by the House of Commons; and
 - (b) a motion relating to the report to be debated and voted upon by the House of Lords.”

Member’s explanatory statement

This new Clause would require an independent evaluation of the impact of the Bill upon the health and social care sectors across the UK to be produced and laid before Parliament. It would require that the devolved nations are consulted as well as other interested parties.

Clause 8

BARONESS HAMWEE
 BARONESS LUDFORD
 LORD ROSSER
 LORD KENNEDY OF SOUTHWARK

94 Page 5, line 34, at end insert “except sections –

- (a) (*Time limit on immigration detention for EEA and Swiss nationals*),
- (b) (*Initial detention: criteria and duration*), and
- (c) (*Bail hearings*)

which come into force six months after the day on which this Act is passed.”

Member’s explanatory statement

This amendment provides that new Clauses "Time limit on immigration detention for EEA and Swiss Nationals", "Initial detention: criteria and duration" and "Bail hearings" come into force six months after the Act is passed.

BARONESS HAMWEE
 BARONESS LUDFORD
 BARONESS LISTER OF BURTERSETT

95 Page 5, line 34, at end insert –

- “() The Secretary of State may not appoint a day pursuant to subsection (1) until –
- (a) the recommendations of the “Windrush Lessons Learned Review” (HC93 published in March 2020) which may affect EEA and Swiss nationals have been implemented in full in respect of such persons;
 - (b) the Secretary of State has laid before Parliament a report on their implementation in respect of such persons; and
 - (c) the report has been debated by both Houses of Parliament.”

Member’s explanatory statement

This amendment would prevent the Government from ending free movement until it has implemented in full the recommendations of the Windrush Lessons Learned Review so far as they may affect EEA and Swiss nationals.

LORD ROSSER
 LORD KENNEDY OF SOUTHWARK

96 Page 5, line 34, at end insert –

- “() The Secretary of State may not make regulations under subsection (1) unless –
- (a) a Minister of the Crown has published guidance on the “reasonable grounds” for permitting applications to the EU Settlement Scheme on a date later than the deadline for application to the scheme;
 - (b) the guidance includes instruction on the immigration status of a person who is eligible to apply for the scheme in the period between the deadline for application and the date their application is made; and
 - (c) a copy of that guidance has been laid before Parliament.”

Member's explanatory statement

This would prevent Part 1 of the Bill coming into force until the Government has published guidance on what 'reasonable grounds' will be accepted as a reason for making a late application to the EU settlement scheme and how a person will be affected in the gap between the deadline and the date they apply.

After Clause 8

THE LORD BISHOP OF BRISTOL
BARONESS HOOPER
BARONESS HOLLINS

97

Insert the following new Clause –

“Report on impact on faith communities

- (1) Parts 1 and 2 may not come into force under section 8(1) and (3) until a Minister of the Crown has laid a report before each House of Parliament setting out the impact of this Act on faith communities in the United Kingdom.
- (2) A report under subsection (1) must consider the ability of members and representatives of faith communities from the EEA and Switzerland to enter the United Kingdom for purposes related to their faith.
- (3) A Minister of the Crown must, within the period of six months beginning with the day on which the report has been laid before Parliament, table a motion in the House of Commons in relation to the report.
- (4) In this section, “faith communities” means a group of individuals united by a clear structure and system of religious or spiritual beliefs.”

Member's explanatory statement

This new Clause requires the Government to report to Parliament on the implications of this Bill for faith communities, including the ability of members of faith communities to come to the UK for reasons connected with their faith.

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

PROVISIONAL SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

4 September 2020
