

Impact Assessment, The Home Office

Title: Impact Assessment for The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (“the consequential amendments SI”)

IA No: HO0384 **RPC Reference No:** N/A

Other departments or agencies:

Date: 13 November 2020

Stage: Final

Intervention: Domestic

Measure: Secondary legislation

Enquiries:

Borders, Immigration and
Citizenship Policy, Home Office

RPC Opinion: Not Applicable

Business Impact Target: Non qualifying provision

Cost of Preferred (or more likely) Option (in 2019 prices, and 2020 base year)

Net Present Social Value NPSV (£m)	-1 to -3	Business Net Present Value BNPV (£m)	-1 to -2	Net cost to business per year EANDCB (£m)	<1
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What is the problem under consideration? Why is government intervention necessary?

The consequential amendments statutory instrument (SI) make changes to reflect the end of EU free movement in domestic legislation. Once free movement ends, EEA citizens will no longer be able to rely on EU free movement law and will be subject to UK immigration control. The SI is necessary to amend legislation to align EU, EEA and Swiss (“EEA”) citizens with non-EEA citizens in the UK immigration system; remove references to EU laws and institutions; make certain savings provisions; and protect the rights of Irish citizens.

What are the policy objectives and the intended effects?

The intention is to ensure a coherent UK statute book after free movement ends. This will be done by removing references to EU law and institutions and aligning EEA citizens and their family members with non-EEA citizens in the immigration system. The effect is to remove preferential arrangements for EEA citizens and their family members which currently exist by virtue of free movement (and ECAA rights which will no longer apply to Turkish nationals and their family members), but continue protection for Irish citizens, those granted status under the EU Settlement Scheme (“the EUSS”) and those eligible for ECAA transitional measures. The new immigration system will be provided for in Immigration Rules under the Immigration Act 1971.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Regulation is needed as other methods (for example, information and education, incentive-based approaches) do not meet the objective of enabling the UK’s immigration system to function as intended. The ending of free movement requires changes to primary and secondary legislation which must be done through legislation. As such a ‘do nothing’ option is compared against the preferred option of enacting this legislation.

Main assumptions/sensitivities and economic/analytical risks

Discount rate (%)

3.5%

A 10-year appraisal period is used, assumed earnings (of non-Home Office staff) are drawn from Annual Survey of Hours and Earnings data. Discussion of impacts focusses on those affecting the resident population. Other assumptions are policy specific.

A number of uncertainties are dealt with through the use of ranges – accounting for uncertainty in volumes, behaviour, and fee levels, for example.

The analysis does not account for changes in outcomes or behaviour related to Covid 19.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____



Date: _____ 17 November 2020

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2020/21	PV Base	2020/21	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-3	High:	-1	Best:	N/A	Best BNPV	-1 to -2	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.3	0.5	0.7	N/A	-0.6
High	0.3	2.6	2.9	N/A	-2.2
Best Estimate	N/A	N/A	N/A	N/A	N/A

Description and scale of key monetised costs by 'main affected groups'

Administrative costs (public sector): £0.1 to £0.7 million for Register Office staff to check EUSS status.

Administrative costs and forgone fee revenue (voluntary sector): £0.6 to £2.2 million for set up/familiarisation, lost fee revenue to the Anglican Church and for clergy to check EUSS status.

Other key non-monetised costs by 'main affected groups'

Administrative costs falling to the public sector from numerous changes.

Indirect costs to business from alignment of Crown employment rules.

Impacts relating to rules for the Immigration Skills Charge were considered within Home Office Impact Assessment HO0376 '*Impact Assessment for changes to the Immigration Rules for Skilled Workers*'

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	N/A	N/A	N/A	N/A	N/A
High	N/A	N/A	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

No benefits are monetised.

Other key non-monetised benefits by 'main affected groups'

Savings from aligning access to non-contributory benefits and housing support for EEA citizens (not holding an EUSS status or (up until 30 June 2021), lawfully resident and eligible to hold such status) could yield savings greater than the monetised costs outlined above. The saving falls to the Exchequer in terms of reduced public expenditure.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m: <£1m									
Cost, £m	<1	Benefit, £m	0	Net, £m	<1				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					No				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded:	N/A	Non-Traded:	N/A		

PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	N
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Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (“the Act”) provides that EU free movement arrangements will cease to apply to the UK at 11pm on 31 December 2020. Part 1 of the Act does this by revoking the Immigration (European Economic Area) Regulations 2016 (“the EEA Regulations”), which implement free movement in the UK.

Once free movement has ended, EEA citizens¹ will be subject to UK immigration control and will no longer be able to rely on rights of residence resulting from EU law. They will therefore require leave to enter and remain in the UK, as is currently the case for those non-EEA citizens who are not covered by free movement law.

These Regulations (the consequential amendments SI) are to be made under the power in section 5 of the Act. Section 5 provides a delegated power to make changes to UK law by regulations as a consequence of, or in connection to, the end of free movement by Part 1 of the Act.

The consequential amendments SI has four main purposes:

- to align the treatment of non-withdrawal agreements² -protected EEA citizens with non-EEA citizens in the immigration system from January 2021;
- to make some savings and transitional provisions (in addition to those made by and under the EU (Withdrawal Agreement) Act 2020 (EUWAA 2020));
- to amend provisions relating to retained EU law and institutions; and
- to reflect the Act’s provisions to protect the rights of Irish citizens.

The Government has legislated through the EUWAA 2020 to protect the residence rights of EEA citizens who are resident in the UK by the end of the transition period on 31 December 2020. They will be eligible to apply for UK immigration status under the EUSS. The deadline for applications under that scheme is 30 June 2021. The Government has legislated separately³ to save relevant residence rights of those lawfully resident under the EEA Regulations by 31 December 2020. The effect is that the existing rights of those individuals will continue to apply during the grace period (1 January – 30 June 2021) despite the revocation of the EEA Regulations by the Act. These protections are made in the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (“the grace period SI”), under the powers in section 7 of the EUWAA 2020. The grace period SI comes into force at the end of the transition period.

A.2 Groups Affected

The consequential amendments SI will affect EEA citizens and their family members, who will as a result of the SI be treated in line with non-EEA citizens in the current immigration system. The provisions will primarily affect EEA citizens and their family members who move to the UK from 1 January 2021, who are not protected under the withdrawal agreements, which have been implemented in the UK by way of the EUWAA 2020 and the EUSS. As a result of the rights conferred by status under the EUSS those who apply and are granted status under that scheme will not be affected by the SI, except by benefitting from provisions that protect the rights of those granted such status in UK immigration legislation.

¹ This impact assessment refers to “EEA citizens” to mean citizens of the European Union (EU) countries, citizens of countries of the European Economic Area (EEA) (Iceland, Liechtenstein and Norway) and of Switzerland.

² The EU Withdrawal Agreement, the EEA EFTA Separation Agreement and the Swiss Citizens’ Rights Agreement

³ See SI 2020/1209 available at: <https://www.legislation.gov.uk/ukSI/2020/1209/contents/made>

As a result of protections made by the grace period SI, those EEA citizens and their family members who are lawfully resident in the UK under the EEA Regulations will not be affected by the changes made by the consequential amendments SI for the duration of the grace period. They will need to make their application under the EUSS by the deadline of 30 June 2021, at which time the grace period SI savings will cease to apply (except where an application made before the deadline has not been fully determined).

The SI also affects Turkish nationals and their family members who will no longer benefit from preferential immigration arrangements arising from the Turkish European Communities Association Agreement (“ECAA”)⁴. The provisions will primarily affect those applying for the first time from 1 January 2021. Turkish nationals and their family members who hold or apply for ECAA leave by 31 December will be eligible to apply for transitional arrangements in Appendix ECAA (Extension of Stay) which largely replicate ECAA arrangements.

A.3 Consultation

Within Government

No public consultation was conducted in the development of the consequential amendments SI. Home Office policy officials and lawyers have worked closely with counterparts in other government departments, in particular those responsible for access to benefits and services, and the Devolved Administrations, where relevant in the development of the SI.

Public Consultation

None.

B. Rationale for intervention

Following the outcome of the Referendum on the UK’s membership of the EU, the Government secured a Withdrawal Agreement with the EU on the terms of which the UK left the EU on 31 January 2020. The Government has committed to ending the free movement of people as a result of the UK’s withdrawal from the EU and has legislated through the Act in order to do so on 31 December 2020. The Government will introduce the new points-based immigration system from 1 January, which will be a global immigration system that treats people on the basis of their skills and contribution, not their citizenship.

The Act revokes the EEA Regulations, which implement free movement arrangements (the Free Movement Directive 2004/38/EC) in UK law. Currently, a wide range of primary and secondary UK immigration and nationality legislation makes provision for EEA citizens and their family members as a result of free movement arrangements, which will no longer be appropriate once free movement ends. This includes legislation governing access to benefits and services in the UK, which is predicated on an individual’s immigration status. The Act also revokes directly effective Treaty rights affecting immigration law, including rights for Turkish nationals and their family members from the ECAA.

The consequential amendments SI is required to reflect the end of free movement across the UK statute book, to remove those separate arrangements for EEA citizens and their family members (and Turkish nationals and their family members) and to align their position with that of non-EEA citizens. Provision will be made to maintain the rights of those who have immigration status under the EUSS, which is the means for EEA citizens resident in the UK by the end of the transition period (31 December 2020) and their eligible family members to obtain a UK immigration status. The legislative changes required are such that there is no available alternative intervention to legislation. Provision is also being made to allow eligible Turkish nationals to extend their stay in the UK under new immigration rules which are similar to the ECAA.

Failure to make these changes would mean that free movement law would not have been comprehensively repealed. The statute book would be incoherent - impacting on public confidence

⁴ Turkish European Communities Association Agreement- the Agreement establishing an Association between the European Community and Turkey, signed at Ankara on 12th September 1963

in the Government's ability to control migration. As vestiges of EU law would remain, EEA citizens would retain some preferential treatment compared to non-EEA citizens and the points-based immigration system could not be introduced. An incoherent statute book could affect the decision making of agents in the economy, for example a lack of clarity around the rules, costs and processes to hire a non-UK national to work in the UK could lead to inefficient decision making by employers. Reducing uncertainty and providing clearer information to agents acting in the economy is a rationale for intervention.

C. Policy objective

The policy objective is to ensure that the ending of free movement by the Act is reflected in a range of UK immigration, nationality and benefits and services legislation. Broadly, this will consist of changes to align the position of EEA citizens and their family members with that of non-EEA citizens in the existing immigration system. The consequential amendments SI will also remove references to EU law and institutions, which will no longer be relevant after the end of the transition period on 31 December 2020, and will make provisions to protect the rights of Irish citizens, those granted immigration status under the EUSS, and those eligible for ECAA transitional arrangements. The effect is that those EEA citizens and their family members coming to the UK from 1 January 2021 will be treated in the same way as non-EEA citizens, will require leave to enter and remain and will need to apply under the new points-based immigration system. The rights of Irish citizens, certain Turkish nationals and their family members and those with EUSS status will be protected.

An indicator of success will be the effective functioning of UK immigration law and effective alignment of EEA citizens who are not protected by the withdrawal agreements with non-EEA citizens in the immigration system. While no data has been identified to enable measurement of this, routine monitoring of use of the immigration system, including new routes under the points-based immigration system, will expose any deficiencies in implementation. For example, EEA citizens making applications under the points-based immigration system from 1 January will be an indicator of success.

D. Options considered and implementation.

Non-regulatory options have been dismissed, as interventions such as information and education, or incentive based approaches, would not achieve the objectives. For example, they would not provide a legal basis allowing the immigration system to operate as intended.

Options considered are a 'do nothing' option and the preferred option of making the consequential amendments SI.

Similarly to non-regulatory approaches, the 'do nothing' option would not achieve the objectives set out in Section C, and, for example, would not provide the legal basis for the immigration system to operate as intended.

Preferred option and implementation plan

The preferred option is to make the consequential amendments SI as soon as possible, with the majority of provisions coming into force at 11pm on 31 December 2020, with the following exceptions:

1. Changes to the sham marriage and civil partnership referral and investigation scheme, which will come into force at the end of the grace period on 1 July 2021;
2. Changes to the application of the immigration skills charge, which come into force on 1 December 2020; and
3. Technical changes which come into force immediately before commencement of the consequential amendments SI, for example, to revoke contingency 'no deal' legislation that is no longer required now that the UK has left the EU with a Withdrawal Agreement in place.

This secondary legislation helps achieves the objectives set out in Section C through changes to reflect the end of free movement by the Act, including by aligning EEA citizens and their family

members with non-EEA citizens in the immigration system, except Irish citizens and those with status granted under the EUSS.

The operation and enforcement of these changes will primarily be undertaken by the Home Office and other government departments.

E. Appraisal

The appraisal assesses the various impacts of provisions included in the consequential amendments SI relative to the 'do nothing' counterfactual.

General assumptions and data

Given the breadth of provisions, there are few overarching assumptions used consistently, they are:

- All costs and benefits are presented in 2020/21 prices, with 2021 appraisal base year.
- A 10-year appraisal period is used⁵.
- A discount rate of 3.5 per cent is applied⁶.
- As with all migration analysis, assessment of impacts is focussed on impacts on the resident population of the UK.

Similarly, the breadth of provisions mean only a few data sources used in appraisal are used consistently:

- Annual Survey of Hours and Earnings (ASHE) 2019: Gross hourly median earnings⁷ for occupations is used to provide estimated earnings of relevant staff (outside of the Home Office)
- GDP Deflator⁸: Used to uplift ASHE data on wages to 2020/21 prices
- Real Productivity Growth⁹: Used in to maintain wages in real terms.

Appraisal

Where possible, provisions in the SI have been assessed quantitatively. Where there is a lack of available robust data, a robust methodology to estimate potential volumes affected and/or potential impacts have been assessed qualitatively. The provisions in the SI, and their related regulation numbers within the SI are outlined below.

Provisions assessed largely quantitatively

- Provisions aligning sham marriage rules for EEA citizens (not holding an EUSS status) with that for non-EEA citizens.
Regulations 3, 7, 12 (paragraphs 4 and 5), 14, 15 (paragraph 3), 16, 20 (paragraphs 5 and 6), 31, 36, 37, 40, 41, 42, 43 and 44

Provisions assessed qualitatively

- Provisions aligning Crown employment rules
Regulation 4
- Provisions allowing for alignment of deportation orders and removal rules for EEA citizens (not holding an EUSS status) with those for non-EEA citizens
Regulations 5 (paragraph 5), 12 (paragraph 2) and 13 (paragraph 2)

⁵ In line with standard practice. See HMT (2018) 'The Green Book: Central Government Guidance on Appraisal and Evaluation'

⁶ In line with standard practice. See HMT (2018) 'The Green Book: Central Government Guidance on Appraisal and Evaluation'

⁷ Table 14.5a, 'Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14', 2019 Provisional Data is used.

⁸ HMT (8 April 2020), "GDP deflators at market prices, and money GDP March 2020 (Quarterly National Accounts)"

⁹ Office for Budgetary Responsibility, Table 1.20 'March 2020 Economic and Fiscal Outlook: Economy supplementary tables'

- Provisions aligning eligibility for non-contributory benefits and housing assistance for EEA citizens (not holding an EUSS status) with non-EEA citizens
Regulations 9, 10, 12 (paragraphs 7 and 8), 13 (paragraph 4), 21, and all regulations contained within Part 3 (regulations 53 to 78)
- Provisions allowing offences considered spent under the Rehabilitation of Offenders Act 1974 to be part of consideration for immigration and nationality decisions for EEA citizens (not holding an EUSS status) once the consequential amendments SI comes into force
Regulation 17 (paragraphs 3-5)
- Provisions aligning the application of the Immigration Skills Charge to employment of EEA and non-EEA citizens (note quantification of this element occurred within the Home Office IA HO0376 'Impact Assessment for changes to the Immigration Rules for Skilled Workers'. That IA considered the impacts of the Skilled Worker route, including the Immigration Skills Charge.)
Regulation 20 (paragraphs 7 and 8)
- Provisions aligning rules for absences from the UK for Crown Servants
Regulation 27
- Provisions aligning biometric requirements
Regulations 32 and 34

In addition, the provisions outlined in Table 1 have been assessed qualitatively to have no or very limited impact, and are not discussed further in this impact assessment (IA).

Table 1, Provisions assessed to have zero or very limited impacts, and reason for assessment.

PROVISION AREA	REASON FOR ZERO OR LIMITED IMPACT¹⁰
Provisions aligning the treatment of EEA citizens and their family members with that of non-EEA citizens in the existing immigration system in the operation of the Common Travel Area; and provisions reflecting the status of Irish citizens in the Act <i>Regulations 5 (paragraph 2), 25, 49, 50, 79 and 80</i>	These provisions effectively maintain the effective status quo (including for Irish frontier workers), with some minor changes to guidance required. Regulations 79 and 80 include changes to reflect that, for the purposes of nationality applications in the UK, individuals will no longer be able to rely on EU derived residence rights as a way to show that you are lawfully resident in the UK, as those rights will cease to apply except where a person has saved rights under the grace period SI. These amendments will not affect residence in the UK under EU rights that took place before the end of free movement. This is expected to have minimal impact.
Provisions maintaining the offence of facilitating illegal immigration to the EU <i>Regulation 5 (paragraphs 3 and 4)</i>	This provision maintains the effective current situation.
Provisions making EEA citizens (not holding an EUSS status) subject to Right-to-Rent controls, as per non-EEA nationals <i>Regulation 6, 8, 20 (paragraphs 2 and 3)</i>	These provisions align the need to hold a valid immigration status to be eligible to rent a property in England. This means if any EEA citizen does not hold an EUSS status, indefinite leave to remain, or a valid status within the new immigration system it would be illegal to rent a property to them. However, given these provisions do not change the acceptable document list to prove a right to rent in the UK

¹⁰ Note where provisions maintain the 'effective' status quo, the 'do nothing' option may have led to differing impacts as it would not maintain the status quo. However as there may not be a realistic 'do nothing', for example not maintaining the Common Travel Area – the impacts under 'do nothing' are disregarded as no realistic 'do nothing' is seen.

	the impacts of this change may be minimal until such a point the list of acceptable documentation is changed.
Provisions aligning appeals and tribunal processes for EEA citizens (not holding an EUSS status) with those for non-EEA citizens, and maintaining fee exemptions for EEA citizens appealing under the EEA Regulations where they continue in effect <i>Regulations 11, 33, 35, 38 and 39</i>	These provisions are estimated to have a broadly neutral impact due to replacing eligibility for one type of appeal process with another, and maintaining the status quo for EEA citizens paying zero fee for certain appeals processes.
Provisions aligning relevant matters for the purposes of regulating immigration advice for EEA citizens with those non-EEA citizens <i>Regulation 12 (paragraph 6)</i>	These changes remove references to EU citizenship, and admission and residence under EU law as they will no longer be relevant matters for the purposes of regulating immigration advice in the UK.
Provisions aligning rules for employers in providing immigration advice to their employees/prospective employees who are EEA citizens (not holding an EUSS status) with those for non-EEA citizens <i>Regulation 30</i>	These changes remove reference to an exemption from a prohibition for employers of EEA citizens in these rules, which will be redundant given exemptions exist for employers to give immigration advice to employees who are non-EEA citizens.
Provisions removing references to EU law or EU documentation where no additional decisions will be possible to be made with respect to these once free movement ceases to apply in the UK <i>Regulations 13 (paragraph 3), 17 (paragraph 2), 28, 32, 33, 34, 35, 38, 39, 45, 46, and 80</i>	These provisions reflect that documents issued in respect of EU residence rights will no longer apply in the UK, and as such broadly simplify rules and processes in not accepting 'new' applications from January 2021 for statuses that no longer apply in the UK (as based in EU law).
Provisions aligning eligibility for specified benefits <i>Regulation 13 (paragraph 4)</i>	These changes align the position of EEA citizens with non-EEA citizens in terms of eligibility for specified benefits. Separate legislation maintains the ineligibility of citizens to asylum support, on the basis that EU claims are held to be inadmissible under the Immigration Rules, unless there are exceptional circumstances.
Provisions aligning the application of the offence for failing to have appropriate documentation at an immigration/asylum interview for EEA citizens (excluding Irish citizens, EEA citizens holding an EUSS status and frontier workers protected by the withdrawal agreements) with those for non-EEA citizens	Aligning requirements to bring documentation to interviews, and removing the defence of being an EEA national, is not expected to impact the volume of prosecutions brought under this provision.

<i>Regulation 15 (paragraph 2)</i>	
Provisions affecting the Criminal Justice and Immigration Act 2008 <i>Regulation 18</i>	These changes hold no impact in and of themselves as the relevant provision in the Criminal Justice and Immigration Act 2008 has not been commenced.
Provisions reflecting the revocation of the EEA Regulations in legislation setting out offences of fraudulent use of identity documents or supply of specialist printing equipment to produce fraudulent identity documentation <i>Regulations 19 and 22</i>	These provisions maintain the current situation with regard to supply of equipment to produce and the use/possession of fraudulent physical documentation (EEA Biometric Residence Card).
Provisions maintaining rights for pre-settled EUSS status holders in access to benefits/services <i>Regulation 20 (paragraph 4), Schedule 4 (given effect by regulation 83)</i>	These provisions maintain the effective current situation.
Provisions maintaining current entry rights of EEA citizens for entry via the Channel Tunnel <i>Regulation 26</i>	This provision temporarily maintains the effective current situation.
Provisions allowing alignment of immigration control in Control Zones for EEA citizens (not holding an EUSS status) with that for non-EEA citizens <i>Regulation 29</i>	This provision does not materially affect the administrative burden in operation of Control Zones.
Provisions revoking instruments <i>Regulations 47, 48 (revoke 'no deal' provisions)</i> <i>51 and 52 (revoke regulations that amended the EEA Regulations, which will be revoked at 11pm on 31 December 2020)</i>	The UK has left the EU and ratified the EU Withdrawal Agreement. The EEA Regulations will be revoked to end free movement at 11pm on 31 December 2020.
Provisions maintaining current rules for assessment of ECAA visa and in-country applications submitted prior to the commencement of the consequential amendments SI <i>Schedule 2 (given effect by regulation 81)</i>	This provision maintains the effective current situation for assessment of ECAA applications submitted prior to 31 December 2020 and in respect of conduct committed prior to end of the transition period for eligible Turkish nationals and their family members.
Savings provisions in relation to the Immigration (European Economic Area) Regulations 2016 <i>Schedule 3 (given effect by Regulation 82)</i>	This provision broadly maintains the effective current situation to continue the effect of the EEA Regulations in respect of deportation and exclusion orders made under those regulations before commencement of this instrument; ensure applications for documentation under those

	regulations can continue to be considered; and ensure pending appeals under those regulations can continue.
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The remaining provisions and their impacts are discussed in Table 2.

Table 2 – Potential Impacts arising from Remaining Provisions

PROVISION AREA	POTENTIAL DIRECT IMPACTS TO BUSINESS	POTENTIAL WIDER IMPACTS
<p><i>Aligning sham marriage rules</i></p> <p><i>Regulations 3, 7, 12 (paragraphs 4 and 5), 14, 15 (paragraph 3), 16, 20 (paragraphs 5 and 6), 31, 36, 37, 40, 41, 42, 43 and 44</i></p>	<p>Familiarisation Costs (Year 1): Anglican Church</p> <ul style="list-style-type: none"> An illustrative estimate of £0.3m (2020/21 prices) per hour for clergy familiarisation. Based on an estimated 20,000 clergy affected and it is uncertain if familiarisation will exceed 1 hour or not¹. <p>Administrative Costs (Ongoing): Anglican Church</p> <ul style="list-style-type: none"> Arise from lost fee revenue for the Anglican Church as EEA citizens (not holding an EUSS status) become ineligible for Reading of the Banns, and clergy time in checking for EUSS status for EEA citizens² (holding an EUSS status). Estimated at £280,000 to £1.89 million (2020/21 prices, discounted) over 10 years. Range based on uncertainty in volumes (particularly proportions of EEA citizens seeking ceremonies with other EEA citizens/other citizens) and the level of fee revenue³ – extremes are used to illustrate widest range of uncertainty in these outcomes. 	<p>Familiarisation and IT Set Up costs (Year 1): Home Office and Register Offices</p> <ul style="list-style-type: none"> Familiarisation estimated at less than £10,000 for Home Office. Familiarisation costs for Register Offices not quantified. IT Set-up costs for Register Offices and Home Offices not quantified but thought to be minimal. <p>Administrative Impacts (Ongoing): Register Offices</p> <ul style="list-style-type: none"> As Register Offices charge fees for civil preliminaries, an assumption is made the fee charged⁴ reflects the administrative burden – meaning the net effect for register offices would be broadly neutral when considering fee revenue. As such potential increased administrative burden resulting from additional cases of EEA citizens (not holding an EUSS status) who otherwise would have chosen Reading of the Banns if eligible are assumed to be negligible when considering additional fee revenue. Similarly, as EEA citizens (not holding an EUSS status) who may have chosen Civil Preliminaries regardless of policy change but are now subject to immigration control face a higher fee level, it is assumed additional administrative burden is negligible when considering additional fee revenue.

¹ Assumes occupation '2444 Clergy' in Annual Survey of Hours and Earnings data is representative of staff costs.

² Home Office estimates this to take between 3 and 8 minutes.

³ Varies from £31 to £107 (£20/21) depending on the number of churches Reading of the Banns needs to occur in and if needing a certificate from a 'home' church to marry elsewhere. See https://www.churchofengland.org/sites/default/files/2019-11/2020_parochoial_fees_table_a4.pdf

⁴ £35, or £47 for those subject to immigration control See <https://www.gov.uk/marriages-civil-partnerships/give-notice>.

PROVISION AREA	POTENTIAL DIRECT IMPACTS TO BUSINESS	POTENTIAL WIDER IMPACTS
		<ul style="list-style-type: none"> • However, as no commensurate fee increase is in place for checking EUSS status (similar to the clergy). This is estimated at £140,000 to £740,000 (PV) in 2020/21 prices, over 10 years⁵. <p>Administrative Impacts (Ongoing): Home Office</p> <ul style="list-style-type: none"> • No estimate of volumes are available, but Home Office estimate of staff pay costs of investigating a sham marriage referral, based on staff time involved, is around £225 (2020/21 prices).
<p><i>Aligning Crown Employment Rules</i></p> <p><i>Regulation 4</i></p>	<p>None identified.</p>	<p>Administrative Costs (Ongoing)</p> <ul style="list-style-type: none"> • This cost falls to Crown employers. There may be additional recruitment costs to recruit from a smaller potential pool of labour. <p>Indirect Business Costs (Ongoing)</p> <ul style="list-style-type: none"> • Recruitment firms looking to place clients in public sector roles may be impacted through not being able to place certain EEA nationals in certain roles.
<p><i>Aligning eligibility for non-contributory benefit rules and access to housing support</i></p> <p><i>Regulations 9, 10, 12 (paragraphs 7 and 86 and 7), 13 (paragraph 4), 21, and all regulations contained within Part 3 (regulations 53 to 78)</i></p>	<p>None identified.</p>	<p>Fiscal savings (Ongoing)</p> <ul style="list-style-type: none"> • This measure - aligning EEA migrants' access to non-contributory benefits and housing support with non-EEA citizens - could lead to reduced public expenditure on welfare. EEA migrants arriving in the UK under the new immigration system, from January 2021, will not be able to access non-contributory benefits or housing support until they have been granted indefinite leave to remain, typically after five years' residence. • At Spring Budget 2020⁶, DWP and HMRC estimated alignment of non-contributory benefits would lead to an estimated saving in public expenditure on welfare of around £160m (in nominal prices) in the first five years of the policy.

⁵ Assumes occupation '2429: Business, Research And Administrative Professionals N.E.C' in Annual Survey of Hours and Earnings data is representative of staff costs.
⁶ HM Treasury (March 2020) 'Budget 2020: Policy Costings'

PROVISION AREA	POTENTIAL DIRECT IMPACTS TO BUSINESS	POTENTIAL WIDER IMPACTS
		<ul style="list-style-type: none"> The main uncertainties in this costing relate to future migration flows. Estimated impacts of the future immigration system on future inflows of EEA non-contributory benefit claimants look at Registration and Population Interactions Dataset (RAPID) data, which combines administrative data from DWP and HMRC tax, earnings and benefits records, to determine the proportion of claimants who would not meet the salary thresholds outlined in the February 2020 Home Office Policy Statement⁷. As the analysis published at Spring Budget time provided estimated benefits over a five-year profile in nominal terms, these have not been possible to include as quantified benefits in this IA. However, given the illustrative scale of these potential benefits set out in the Spring Budget analysis, these may be substantially larger than the quantified potential costs outlined in this IA. No estimates of the savings from alignment of Housing Support are available. Potential negative impacts of this measure should be mitigated through the requirement for migrants to have funds to support themselves when coming to the UK. Nonetheless there could be unintended consequences if migrants fall on hard times and need to rely on local authorities or the voluntary sector for support. This impact is too uncertain for any robust estimate to be made.
<p><i>Aligning rules for absences from the UK for Crown Servants</i></p> <p><i>Regulation 27</i></p>	<p>None identified.</p>	<p>Administrative Costs (Ongoing)</p> <ul style="list-style-type: none"> This cost falls to the Home Office. There may be additional time taken to assess absences of EEA citizens (not holding an EUSS status) who are Crown employees. This is not monetised but may be a relatively small cost per case.

⁷ Home Office (19 February 2020) 'The UK's points-based immigration system: policy statement'

PROVISION AREA	POTENTIAL DIRECT IMPACTS TO BUSINESS	POTENTIAL WIDER IMPACTS
<p><i>Aligning deportations, and removals rules</i></p> <p><i>Regulations 5 (paragraph 5), 12 (paragraph 2) and 13 (paragraph 2)</i></p>	<p>As the Home Office has existing agreements for airline seats for removals, or pays market value for seats, direct impacts for airlines and other operators are expected to be minimal. There may be small reading impacts arising from notification of passenger documentation being available alongside. This is not monetised as no robust estimate of volumes of EEA nationals potentially subject to removals has been possible to develop.</p>	<ul style="list-style-type: none"> This cost falls to Crown employers. There may be small impacts should absences abroad affect who crown employers can send on postings abroad. <p>Administrative Costs (Ongoing)</p> <ul style="list-style-type: none"> This cost falls to the Home Office and Islands authorities. Aligning these rules may increase volumes of removals to be processed. This could see administrative costs (from ticket purchases and processing of returns for example) incurred by Home Office also increase. This has not been monetised.
<p><i>Aligning consideration of spent offences in immigration decisions</i></p> <p><i>Regulation 17 (paragraphs 3-5)</i></p>	<p>None identified.</p>	<p>It is difficult to quantify the number of EEA citizens who would be affected by this change because stricter rules will apply to EEA citizens seeking to enter or remain after the end of the transition period. While stricter rules may mean fewer EEA citizens qualifying to enter or remain in the UK, it is not possible to estimate the impact of this proposal in this IA.</p>
<p><i>Aligning deportation and removals rules for ECAA</i></p> <p><i>Schedule 2</i></p>	<p>None identified.</p>	<p>It is difficult to quantify the number of Turkish nationals and their family members who could be refused or removed as a result of the changes to restrictions thresholds from 1 January 2021 onwards. We do not anticipate that ECAA business persons will be affected given the UK thresholds already apply, but ECAA workers and family members currently benefit from EU public policy thresholds, so there may be a small increase in refusals, removals, exclusions or deportations.</p>
<p><i>Aligning Immigration Skills Charge Rules</i></p> <p><i>Regulation 20 (paragraphs 7 and 8)</i></p>	<p>Please refer to Home Office IA Home Office Impact Assessment HO0376 'Impact Assessment for changes to the Immigration Rules for Skilled Workers'. That IA considered the impacts of the Skilled Worker route, including the impacts of the Skills Charge.</p>	<p>Please refer to Home Office IA HO0376 'Impact Assessment for changes to the Immigration Rules for Skilled Workers'. That IA considered the impacts of the Skilled Worker route, including the Immigration Skills Charge.</p>

PROVISION AREA	POTENTIAL DIRECT IMPACTS TO BUSINESS	POTENTIAL WIDER IMPACTS
<p><i>Aligning biometric requirements</i></p> <p><i>Regulations 32 and 34</i></p>	<p>None identified.</p>	<p>These provisions may impose administrative costs to Home Office, and may affect behavioural desires to migrate to the UK. Should that be the case factors such as family profile, age and potential economic activity that otherwise would have been undertaken in the UK would inform an assessment of impact.</p>

Net Present Social Value (NSPV), Business Net Present Value (BNPV), Equivalent Annual Net Direct Costs to Business (EANDCB)

The monetised costs and benefits feeding into estimated Net Social Present Value and Net Business Present Value are set out in Table 3. It is important to note some unmonetised costs and benefits discussed above do not feed into this calculation, and in particular administrative benefits arising from savings in non-contributory benefits may outweigh the quantified costs and negative NSPV presented below

Table 3 – Estimated Net Present Social Value (NSPV) and Business Net Present Value (BNPV), over the 10-year appraisal period, £000s (PV) 2020/21 prices and 2021 base year.

	10-year impact, £000s (PV) 2020/21 prices
COSTS	
<i>Administrative Costs – Public Sector (Low)</i>	150
<i>Administrative Costs – Public Sector (High)</i>	750
<i>Administrative Costs – Businesses (Low)</i>	560
<i>Administrative Costs – Businesses (High)</i>	2,170
BENEFITS	No benefits are monetised
<i>Business Net Present Value (Low)</i>	-560
<i>Business Net Present Value (High)</i>	-2,170
<i>Net Present Social Value (Low)</i>	-700
<i>Net Present Social Value (High)</i>	-2,920

Data rounded to nearest £10,000. All data are Home Office estimates, and subject to uncertainty.

Using the EANDCB Calculator¹, quantified factors lead to an estimated Equivalent Annual Net Direct Cost to Business (the cost to business per year) of £60,000 to £250,000, in 2020/21 prices and 2021 appraisal base year, rounded to nearest £10,000).

Using the EANDCB calculator to place the main estimates in 2019 prices and a 2020 appraisal base year, over the 10-year appraisal period, provides (rounded to nearest £10,000):

- Business Net Present Value ranges from -£0.53 to -£2.05 million.
- Net Present Social Value ranges from -£0.66, to -£2.76 million.
- EANCDB ranges from £0.06 to £0.24 million.

Impact on small and micro-businesses

Business and voluntary sector organisations identified as affected by the provisions is the Anglican Church.

As the EANDCB is below the £5 million, these measures are not required to be submitted to the Regulatory Policy Committee (RPC) for scrutiny. There is no requirement to undertake a Small and Micro Business Assessment².

¹ See <https://www.gov.uk/government/publications/impact-assessment-calculator--3>

² See P3, Regulatory Policy Committee (2019), "Small and Micro Business Assessments: guidance for departments, with case history examples"

F. Proportionality

The wide ranging nature of changes, and inability to fully quantify all elements has meant this Impact Assessment relies heavily on qualitative description of potential impacts. Unquantified areas are minimal in assessing business impacts, providing reasonable confidence in the scale of business impacts provided, and larger for public sector impacts.

Where impacts have been identified that could form part of Equivalent Annual Net Direct Cost to Business calculations, these have been largely quantified, quantified analysis uses ranges to provide some account for uncertainty.

G. Risks

Analysis in this IA has not been adjusted to account for potential impacts of Covid 19 on longer term behaviour (such as tendency/mode of getting married, or desires/ability to migrate). There is large uncertainty in whether there may be permanent shifts in outcomes, or if there will be short-term impacts with a 'rebound' effect. However, it is clear the risk factor associated with Covid 19, at least in the short term, is to place downward pressure on migrant flows. As such, smaller volumes of flows of EEA citizens (not holding an EUSS status) may be expected to reduce the scale of impacts presented, with the possible exception of set up costs.

There is also large uncertainty in a number of assumptions – estimates of volumes, behaviour, and certain costs for example use ranges to provide an illustrative account of potential uncertainty, but these may not fully account for the range of uncertainty.

There is an implicit assumption that all those eligible for the EUSS make an application before the end of the grace period in June 2021. Should that not be the case, whilst there will be 'reasonable grounds' for accepting late applications, there is also a risk that should some eligible to apply for the EUSS miss the deadline, and then either do not make a late application or their late application is not accepted (the guidance on late applications will be published in early 2021), then they will be in scope to be impacted by the changes in the consequential amendments SI because they will lose their protection under the withdrawal agreements until they are granted EUSS status. This could mean some, for example, are within scope of the sham marriage referral scheme, or are unable to demonstrate their right to work or to rent.

H. Direct costs and benefits to business calculations

Direct impacts on business have been outlined in Table 2 above.

I. Wider impacts

No additional wider impacts have been identified.

J. Trade Impact

No trade impacts have been identified.

K. Monitoring and evaluation (PIR if necessary), enforcement principles

The provisions in the consequential amendments SI will be kept under internal review. Given the changes are to ensure a coherent statute book following the end of free movement, they are largely

technical in nature. Any anomalies or problems would likely be identified through continued observation of the immigration system and, dependent on the nature of the issue, may require further legislative change to ensure continued functioning as intended.

Impact Assessment Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p>Statutory Equalities Duties</p> <p>The public sector equality duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services. [Equality Duty Toolkit]</p> <p>Equality Impact Assessments have been conducted in respect of the provisions in this SI.</p> <p>The SI aligns EEA citizens with non-EEA citizens to reflect the end of free movement by the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 while protecting citizens' rights i.e. those who are protected by the withdrawal agreements and the UK's implementation of those agreements. To achieve the latter, the SI protects the rights of those granted status under the EUSS, the means by which the protected group secure their UK immigration status and associated entitlements, including access to benefits and services.</p> <p>The provisions in the SI do not amount to unlawful direct discrimination on the basis of a protected characteristic; nor is there evidence that they will indirectly cause disproportionate impact. The changes reflect the ending of free movement by the Act and apply equally to all those affected. The changes pave the way for a global points-based immigration system which will treat people equally, irrespective of their nationality, with the exception of those protected by the withdrawal agreements. The changes are justified by facilitating the equal treatment of migrants, with all individuals being subject to the same immigration system and no longer operating a dual system whereby EEA citizens and their family members enjoy preferential treatment compared to non-EEA citizens.</p> <p>The differential treatment for Irish citizens reflects the protection of their unique status including under Common Travel Area arrangements, and support for the Belfast Agreement.</p> <p>The Senior Responsible Officer has read, understood and agreed this statement.</p>	<p>Yes</p>

Any test not applied can be deleted except **the Equality Statement**, where the policy lead must provide a paragraph of summary information on this.

The checklist should be used in addition to [HM Treasury's Green Book guidance](#) on appraisal and evaluation in central government (Green Book, 2018).

The Home Office requires the **Specific Impact Test on the Equality Statement** to have a summary paragraph, stating the main points. **You cannot delete this and it MUST be completed.**