

SCHEDULE 1

Amendments to the 2006 Regulations

New regulation 21B (abuse of rights or fraud)

18. After regulation 21A, insert—

“Abuse of rights or fraud

21B.—(1) The abuse of a right to reside includes—

- (a) engaging in conduct which appears to be intended to circumvent the requirement to be a qualified person;
- (b) attempting to enter the United Kingdom within 12 months of being removed pursuant to regulation 19(3)(a), where the person attempting to do so is unable to provide evidence that, upon re-entry to the United Kingdom, the conditions for any right to reside, other than the initial right of residence under regulation 13, will be met;
- (c) entering, attempting to enter or assisting another person to enter or attempt to enter, a marriage or civil partnership of convenience; or
- (d) fraudulently obtaining or attempting to obtain, or assisting another to obtain or attempt to obtain, a right to reside.

(2) The Secretary of State may take an EEA decision on the grounds of abuse of rights where there are reasonable grounds to suspect the abuse of a right to reside and it is proportionate to do so.

(3) Where these Regulations provide that an EEA decision taken on the grounds of abuse in the preceding twelve months affects a person’s right to reside, the person who is the subject of that decision may apply to the Secretary of State to have the effect of that decision set aside on grounds that there has been a material change in the circumstances which justified that decision.

(4) An application under paragraph (3) may only be made whilst the applicant is outside the United Kingdom.

(5) This regulation may not be invoked systematically.

(6) In this regulation, “a right to reside” means a right to reside under these Regulations.”.