



Jersey

# IMMIGRATION (EU WITHDRAWAL) (JERSEY) ORDER 2020

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Jersey

## IMMIGRATION (EU WITHDRAWAL) (JERSEY) ORDER 2020

*Made by Her Majesty in Council*

*16th December 2020*

*Registered by the Royal Court*

*18th December 2020*

*Coming into force*

*in accordance with article 1(1)*

**HER MAJESTY**, in exercise of the powers conferred upon Her by section 36 of the Immigration Act 1971, section 12(5) of the Immigration Act 1988 and section 8(2) and (3) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 is pleased, by and with the advice of Her Privy Council, to order as follows –

### **1 Citation, commencement and interpretation**

- (1) This Order may be cited as the Immigration (EU Withdrawal) (Jersey) Order 2020 and comes into force on such day as the Minister may by Order appoint, and different days may be appointed for different provisions and for different purposes.
- (2) In this Order –  
“the 2020 Act” means the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020; and  
“the Minister” means the Minister for Home Affairs (of Jersey).
- (3) For the purposes of construing provisions of an Act as part of the law of Jersey, a reference to an enactment which extends to Jersey is to be construed as a reference to that enactment as it has effect in Jersey.
- (4) The Interpretation (Jersey) Law 1954<sup>1</sup> applies to this Order and to the provisions extended by this Order as though this Order and the provisions so extended were included in the definition of “enactment” in Article 1 of that Law.

### **2 Extension of Part 1 and sections 7 and 10 of the 2020 Act to Jersey**

Part 1 and sections 7 and 10 of the 2020 Act shall extend to Jersey subject to the modifications specified in the Schedule to this Order.

**3 Consequential amendment**

In Part III of Schedule 1 to the Immigration (Jersey) Order 1993<sup>2</sup>, paragraph 2 is omitted.

**RICHARD TILBROOK**

*Clerk of the Privy Council*

## SCHEDULE

(Article 2)

### MODIFICATIONS OF PART 1 AND SECTIONS 7 AND 10 OF THE IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU WITHDRAWAL) ACT 2020 AS THEY EXTEND TO JERSEY

#### 1

For section 1 (Repeal of the main retained EU law relating to free movement etc.), substitute –

#### **“1 Repeal of section 7 of the Immigration Act 1988**

Section 7 of the Immigration Act 1988 is repealed.”

#### 2

In section 2 (Irish citizens: entitlement to enter or remain without leave) –

- (a) in subsection (2), in section 3ZA (inserted in the Immigration Act 1971) –
  - (i) for “United Kingdom” in each place it occurs, substitute “Bailiwick of Jersey”;
  - (ii) for “Secretary of State” in each place it occurs, substitute “Minister”;
- (b) in subsection (4) for “integration with UK law of immigration law of the Islands”, substitute “integration with Jersey law of immigration laws of the United Kingdom, Guernsey and the Isle of Man”.

#### 3

Omit section 3 (Protection claimants: legal routes from the EU and family reunion).

#### 4

For section 4 (Meaning of “the Immigration Acts” etc.) substitute –

#### **“4 Meaning of the Immigration Acts etc.**

- (1) In section 33 of the Immigration Act 1971 (Interpretation) after subsection (1) insert the following subsection –
  - “(1A) A reference to “the Immigration Acts” in this Act or in any other provision having effect in the Bailiwick of Jersey is a reference to the Immigration Acts of the United Kingdom as they have effect for the time being as extended to Jersey.”.
- (2) In section 167(1) of the Immigration and Asylum Act 1999, omit the definition of “the Immigration Acts”.

**5**

In section 5 (Consequential etc. provision) –

- (a) in subsection (1) for “Secretary of State may by regulations made by statutory instrument make such provision as the Secretary of State” substitute “Minister may by Order make such provision as the Minister”;
- (b) for subsection (2) substitute –
  - “(2) The power to make an Order under subsection (1) may (among other things) be exercised to modify any provision extended by, or made by or under, an Order in Council on or before the appointed day extending legislation of the United Kingdom to Jersey.”;
- (c) in subsection (3) for “regulations” substitute “an Order”;
- (d) in subsection (4) –
  - (i) for “Regulations” substitute “An Order”;
  - (ii) for “coming into force of the repeal of section 7(1) of the Immigration Act 1988 by paragraph 1 of Schedule 1”, substitute “appointed day”;
  - (iii) for “that Act”, substitute “the Immigration Act 1988”; and
  - (iv) for “the United Kingdom”, substitute “Jersey”;
- (e) in subsection (5) –
  - (i) for “Regulations” substitute “An Order”;
  - (ii) for “primary legislation passed before, or in the same Session as, this Act” substitute “the Immigration Acts having effect in Jersey on or before the appointed day”;
- (f) for subsection (6) substitute –
  - “(6) The Subordinate Legislation (Jersey) Law 1960<sup>3</sup> shall apply to Orders made by the Minister under subsection (1).”;
- (g) omit subsections (7), (8), (9) and (10).

**6**

In section 7 (Interpretation) –

- (a) omit the definition of “domestic law”;
- (b) insert the following definition –
  - “appointed day” means the day on which article 2 of the Immigration (EU Withdrawal) (Jersey) Order 2020<sup>4</sup> comes into force;”;
- (c) for the definition of “Minister of the Crown” substitute –
  - “the Minister” means the Minister for Home Affairs;”;
- (d) omit the definition of “primary legislation”.

**ELIZABETH II****Immigration and Social Security Coordination (EU Withdrawal) Act 2020****2020 CHAPTER 20**

**AN ACT** to make provision to end rights to free movement of persons under retained EU law and to repeal other retained EU law relating to immigration; to confer power to modify retained direct EU legislation relating to social security co-ordination; and for connected purposes.

[11th November 2020]

**BE IT ENACTED** by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows –

**PART 1****MEASURES RELATING TO ENDING FREE MOVEMENT****[1 Repeal of section 7 of the Immigration Act 1988**

Section 7 of the Immigration Act 1988 is repealed.]

**2 Irish citizens: entitlement to enter or remain without leave**

(1) The Immigration Act 1971 is amended as follows.

(2) After section 3 insert –

**“3ZA Irish citizens**

(1) An Irish citizen does not require leave to enter or remain in the [Bailiwick of Jersey], unless subsection (2), (3) or (4) applies to that citizen.

(2) This subsection applies to an Irish citizen if the Irish citizen is subject to a deportation order made under section 5(1).

(3) This subsection applies to an Irish citizen if –

(a) the [Minister] has issued directions for the Irish citizen not to be given entry to the [Bailiwick of Jersey] on the ground that the Irish citizen’s exclusion is conducive to the public good,

(b) the [Minister] has given the Irish citizen notice of the directions, and

- (c) the directions have not been withdrawn.
- (4) This subsection applies to an Irish citizen if the Irish citizen is an excluded person for the purposes of section 8B (persons excluded under certain instruments).
- (5) Where subsection (2), (3) or (4) applies to an Irish citizen, section 1(3) does not permit the Irish citizen to enter the [Bailiwick of Jersey] without leave on arriving in the [Bailiwick of Jersey] on a local journey from any place in the common travel area.”.
- (3) In section 9 (further provisions about the common travel area) –
  - (a) in subsection (2), in the closing words, after “British citizens” insert “or Irish citizens”;
  - (b) in subsection (4), in the opening words, after “British citizen” insert “or an Irish citizen”.
- (4) In Schedule 4 ([integration with Jersey law of immigration law of the United Kingdom, Guernsey and the Isle of Man]) –
  - (a) in paragraph 1, in sub-paragraphs (1) and (2), after “British citizen” insert “or an Irish citizen”;
  - (b) in paragraph 4, after “British citizen” insert “or an Irish citizen”.

**3** \* \* \* \* \*

#### **[4 Meaning of “the Immigration Acts” etc.**

- (1) In section 33 of the Immigration Act 1971 (Interpretation) after subsection (1) insert the following subsection –
  - “(1A) A reference to “the Immigration Acts” in this Act or in any other provision having effect in the Bailiwick of Jersey is a reference to the Immigration Acts of the United Kingdom as they have effect for the time being as extended to Jersey.”.
- (2) In section 167(1) of the Immigration and Asylum Act 1999, omit the definition of “the Immigration Acts”.]

#### **5 Consequential etc. provision**

- (1) The [Minister may by Order make such provision as the Minister] considers appropriate in consequence of, or in connection with, any provision of this Part.
- [(2) The power to make an Order under subsection (1) may (among other things) be exercised to modify any provision extended by, or made by or under, an Order in Council on or before the appointed day extending legislation of the United Kingdom to Jersey.]
- (3) The power to make [an Order] under subsection (1) includes power –
  - (a) to make supplementary, incidental, transitional, transitory or saving provision;
  - (b) to make different provision for different purposes.

- (4) [An Order] under subsection (1) may (among other things) make provision applying to persons who, immediately before the [appointed day], were not entitled by virtue of section 7(1) of [the Immigration Act 1988] to enter or remain in [Jersey] without leave.
- (5) [An Order] under subsection (1) may (among other things) modify provision relating to the imposition of fees or charges which is made by or under [the Immigration Acts having effect in Jersey on or before the appointed day].
- [(6) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders made by the Minister under subsection (1).]
- (7) \* \* \* \* \*
- (8) \* \* \* \* \*
- (9) \* \* \* \* \*
- (10) \* \* \* \* \*

## PART 2 SOCIAL SECURITY CO-ORDINATION

**6 \* \* \* \* \***

## PART 3 GENERAL

### **7 Interpretation**

In this Act –

\* \* \* \* \*

[“appointed day” means the day on which article 2 of the Immigration (EU Withdrawal) (Jersey) Order 2020 comes into force;]

\* \* \* \* \*

[“the Minister” means the Minister for Home Affairs;]

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly).

\* \* \* \* \*

**8 \* \* \* \* \***

**9 \* \* \* \* \***

### **10 Short title**

This Act may be cited as the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.

**SCHEDULES**

\* \* \* \* \*

**ENDNOTES****Table of Endnote References**

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<i>1</i>	<i>chapter 15.360</i>
<i>2</i>	<i>chapter 21.700</i>
<i>3</i>	<i>chapter 15.720</i>
<i>4</i>	<i>L.9/2020</i>