Draft Order laid before Parliament under paragraph 3(1)(a) of Schedule 2 to the Human Rights Act 1998 and subsequently under paragraph 2(a) of that Schedule, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. XXX

IMMIGRATION

The Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (Remedial) Order 2010

Made - - - -	*2010*
Coming into force - -	*2010*

Section 19(1) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004(**1**) has been declared (**2**) under section 4 of the Human Rights Act 1998(**3**) to be incompatible with a Convention right (**4**).

The time for bringing an appeal has expired and no appeal has been brought within that time.

The Secretary of State considers that there are compelling reasons for proceeding by way of remedial order (**5**) to make such amendments to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 as she considers necessary to remove the incompatibility.

In accordance with paragraph 2(a) of Schedule 2 to the Human Rights Act 1998, a draft of this instrument was laid before Parliament and was approved by resolution of each House of Parliament, a document containing a draft of this instrument having previously been laid before Parliament in accordance with paragraph 3(1) of Schedule 2 to that Act.

Accordingly, the Secretary of State makes the following Order in the exercise of the powers conferred by section 10(2) of, and paragraph 1(1)(a), (2) and (3) of Schedule 2 to, the Human Rights Act 1998:

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (Remedial) Order 2010 and shall come into force 14 days after the day on which it is made.

(**1**) 2004 c.19.
(**2**) By the Administrative Court in the case of The Queen on the application of Baiai and others v Secretary of State for the Home Department [2006] EWHC 823 QB (Admin).
(**3**) 1998 c.42.
(**4**) See section 1(1) of the Human Rights Act 1998 for the definition of "Convention rights" and section 21(1) of that Act for the definition of "Convention".
(**5**) See section 21(1) of the Human Rights Act 1998 for the definition of "remedial order".

(2) Any repeal, revocation or other amendment made by this Order has the same extent as the provision which it repeals, revokes or otherwise amends (including extent by virtue of an Order in Council).

(3) In this Order, "the 2004 Act" means the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

Amendment to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004

2.—(1) In the 2004 Act, the following (which relate to procedure for marriage) are repealed—

(a) section 19(3),

(b) section 19(4)(c) and (d),

(c) in section 20(2), the words from the first "and" to "or (c),",

(d) section 21(3),

(e) in section 21(4)(a), the words ", if satisfied as is mentioned in subsection (3),",

(f) in section 21(5), the words from "except that for the purposes of" until the end,

(g) in section 22(3), the words "or (3)(c)",

(h) section 23(3),

(i) in section 23(4), the words "Subject to subsection (5),",

(j) section 23(5), and

(k) section 23(6)(c) and (d).

(2) In section 20(3) of the 2004 Act, for the words before paragraph (a) substitute "Regulations under section 19(2)(a)—".

(3) Section 25(**6**) of the 2004 Act (application for permission) is repealed for all remaining purposes.

Amendment to the Immigration (Procedure for Marriage) Regulations 2005

3. In the Immigration (Procedure for Marriage) Regulations 2005(**7**), the following are revoked —

(a) regulations 6 to 8, and

(b) Schedule 2.

Amendment to the Civil Partnership Act 2004

4.—(1) In Schedule 23 to the Civil Partnership Act 2004(**8**), the following (which relate to procedure for the formation of civil partnerships) are repealed—

(a) paragraph 2,

(b) paragraphs 5 and 6,

(c) paragraph 10(1),

(d) in paragraph 10(2)(a), the words ", if satisfied as is mentioned in sub-paragraph (1),",

(e) paragraph 10(3),

(**6**) Section 25 was repealed by the Immigration, Asylum and Nationality Act 2006, section 50(3)(b) from 2nd April 2007 (see The Immigration, Asylum and Nationality Act 2006 (Commencement No. 6) Order 2007 (S.I. 2007/1109)) subject to a saving made by Article 6.

(**7**) S.I. 2005/15.

(**8**) 2004 c.33.