
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Immigration, Nationality and
Asylum (EU Exit) Regulations 2019**

PART 2

Immigration and Nationality

Chapter 2

Amendment of subordinate legislation

Amendment of the Special Constables Regulations 1965

23. The existing provisions of regulation 1 of the Special Constables Regulations 1965⁽¹⁾ (qualifications for appointment) become paragraph (1) of that regulation and—

- (a) in sub-paragraph (a) of those provisions, after “if not a national of” insert “the United Kingdom or”;
- (b) after those provisions insert—
 - “(2) For the purposes of this regulation, “national of the United Kingdom” means—
 - (a) a British citizen;
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”.

Amendment of the Immigration (Control of Entry through Republic of Ireland) Order 1972

24. In article 4 of the Immigration (Control of Entry through Republic of Ireland) Order 1972⁽²⁾—

- (a) in paragraph (1)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”;
- (b) in paragraph (8), for the words from “an enforceable EU right” to the end, substitute—
 - “—
 - (a) a retained enforceable EU right, or

(1) *S.I. 1965/536*. Regulation 1 was amended by *S.I. 2002/3180, 2006/2278, 2012/1961*. There have been other amendments to this regulation which are not relevant to these Regulations.

(2) *S.I. 1972/1610*; amended by *S.I. 1982/1028, 2014/2475*. There have been other amendments to the Order which are not relevant to these Regulations

- (b) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.”;
- (c) at the end insert—
 - “(9) For the purposes of paragraphs (1) and (8)—
 - “retained enforceable EU right” means a right that—
 - (a) was created or arose by or under the EU Treaties before the time when this paragraph comes into force, and
 - (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

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

25. In article 13B of the Immigration (Leave to Enter and Remain) Order 2000(3) (partners and children of certain Crown servants etc)—

- (a) in paragraph (2)(b)(iii)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”;
- (b) after paragraph (2), insert—
 - “(2A) For the purposes of subsection (2)(b)(iii)—
 - “retained enforceable EU right” means a right that—
 - (a) was created or arose by or under the EU Treaties before the time when this paragraph comes into force, and
 - (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

Amendment of the Detention Centre Rules 2001

26.—(1) The Detention Centre Rules 2001(4) are amended as follows.

- (2) In rule 9 (detention reviews and up-date of claim), in paragraph (3), in each of sub-paragraphs (d) and (e), for “EU law” substitute “retained EU law”.
- (3) In rule 27 (correspondence), in paragraph (6), omit “the European Court of Justice,”.

Amendment of the Police Trainee Regulations (Northern Ireland) 2001

27. The existing provisions of regulation 2A of the Police Trainee Regulations (Northern Ireland) 2001(5) (qualifications for appointment as a police trainee) become paragraph (1) of that regulation and—

- (a) in sub-paragraph (a) of those provisions, for “a Member State, Norway, Iceland or Liechtenstein” substitute “the United Kingdom or an EEA State”;

(3) [S.I. 2000/1161](#); amended by [S.I. 2016/1132](#). There have been other amendments to the Order which are not relevant to these Regulations.

(4) [S.I. 2001/238](#); amended by [S.I. 2010/21](#), [2011/1043](#). There have been other amendments to the Rules which are not relevant to these Regulations

(5) [S.R. 2001 No. 369](#). Regulation 2A was inserted by [S.R. 2008 No. 314](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

(b) after those provisions insert—

“(2) In this regulation—

“EEA State”, in relation to a time, means—

- (a) a state which at that time is a member State, or
- (b) any other state which at that time is a party to the EEA agreement;

“national of the United Kingdom” means—

- (a) a British citizen,
- (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or
- (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”.

Amendment of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003

28. In article 12 of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003(6) (application of criminal law to a Control Zone in France), in paragraph (1)(b), after “member State” insert “or the United Kingdom”.

Amendment of the Police Regulations 2003

29. In regulation 10 of the Police Regulations 2003(7) (qualifications for appointment to a police force)—

(a) in paragraph (1)(a), for “a Member State, Norway, Iceland or Liechtenstein” substitute “the United Kingdom or an EEA State”;

(b) in paragraph (3)—

(i) omit “and” at the end of sub-paragraph (a);

(ii) after sub-paragraph (aa) insert—

“(ab) “national of the United Kingdom” means—

- (i) a British citizen;
- (ii) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or
- (iii) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”.

Amendment of the British Nationality (General) Regulations 2003

30.—(1) The British Nationality (General) Regulations 2003(8) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), at the appropriate place insert—

““retained enforceable EU right” means a right that—

(6) *S.I. 2003/2818*. There have been amendments to the Order which are not relevant to these Regulations

(7) *S.I. 2003/527*. Regulation 10(1)(a) was substituted by *S.I. 2005/2834*. There have been other amendments to the Regulations which are not relevant to these Regulations.

(8) *S.I. 2003/548*; amended by *S.I. 2007/3137, 2011/1043, 2015/738, 1806*. There have been other amendments to the Regulations which are not relevant to these Regulations.

- (a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and
 - (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,
- as that right is modified from time to time.”.
- (3) In regulation 4 (authority to whom application is to be made), in paragraph (3), for “(acquisition by registration: nationals for purposes of the EU Treaties)” substitute “(acquisition by registration: British overseas territories citizens having connection with Gibraltar)”.
- (4) In regulation 7E (use and retention of biometric information), in paragraph (2)(e), for the words from “an enforceable EU right” to the end, substitute—
- “—
- (i) a retained enforceable EU right, or
 - (ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.”.
- (5) In regulation 7G (retention of fingerprints)—
- (a) in paragraph (2)(f)(ii)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”;
 - (b) in paragraph (4), for “Article 16 of the Council [Directive 2004/38/EC](#)” substitute “regulation 15 of the Immigration (European Economic Area) Regulations 2016”.
- (6) In Schedule 2 (particular requirements as respects applications)—
- (a) in paragraph 7(1A) (application under section 4(2) of the Act)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”;
 - (b) in paragraph 12(a) (application under section 5 of the Act), for “for the purposes of the EU treaties” substitute “by virtue of a connection with Gibraltar”;
 - (c) in paragraph 13(1A) (application under section 6(1)) and 14(1A) (application under section 6(2) of the Act)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”.

Amendment of the Police Reserve Trainee Regulations (Northern Ireland) 2004

- 31.** In regulation 1B of the Police Reserve Trainee Regulations (Northern Ireland) 2004(9) (appointment as a police reserve trainee)—
- (a) in paragraph (1)(a), for “a Member State, Norway, Iceland or Liechtenstein” substitute “the United Kingdom or an EEA State”;
 - (b) after paragraph (3) insert—
 - “(4) In this regulation—
 - “EEA state”, in relation to a time, means—
 - (a) a state which at that time is a member State, or

(9) [S.R. 2004 No. 2](#). Regulation 1B was inserted by [S.R. 2009 No. 391](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

- (b) any other state which at that time is a party to the EEA agreement;
“national of the United Kingdom” means—
- (a) a British citizen,
- (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or
- (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”.

Amendment of the Police Service of Northern Ireland Regulations 2005

32. In regulation 10 of the Police Service of Northern Ireland Regulations 2005(10) (qualifications for appointment (where no service as a police trainee))—

- (a) in paragraph (1)(a), for “a Member State, Norway, Iceland or Liechtenstein” substitute “the United Kingdom or an EEA State”;
- (b) in paragraph (3)—
 - (i) omit “and” at the end of sub-paragraph (a);
 - (ii) after sub-paragraph (a) insert—
 - “(aa) “EEA state”, in relation to a time, means—
 - (i) a state which at that time is a member State, or
 - (ii) any other state which at that time is a party to the EEA agreement;
 - (ab) “national of the United Kingdom” means—
 - (i) a British citizen,
 - (ii) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or
 - (iii) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar;”.

Amendment of the Immigration (Provision of Physical Data) Regulations 2006

33.—(1) The Immigration (Provision of Physical Data) Regulations 2006(11) are amended as follows.

- (2) In regulation 2 (interpretation)—
 - (a) in the definition of “application”, in paragraph (d)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”;
 - (b) at the appropriate place insert—
 - ““retained enforceable EU right” means a right that—
 - (a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(10) [S.R. 2005 No. 547](#); amended by [S.R. 2008 No. 325](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

(11) [S.I. 2006/1743](#); amended by [S.I. 2015/737](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

- (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.”.

(3) In regulation 8 (use and retention of biometric information), in paragraph (2)(e), for the words from “an enforceable EU right” to the end, substitute—

“—

- (i) a retained enforceable EU right, or
- (ii) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time.”.

(4) In regulation 10 (retention of fingerprints)—

(a) in paragraph (2)(f)(ii)—

- (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
- (ii) after “1972” insert “as that provision is modified from time to time”.

(b) in paragraph (4), for “Article 16 of the Council [Directive 2004/38/EC](#)” substitute “regulation 15 of the Immigration (European Economic Area) Regulations 2016”.

Amendment of the Immigration (Biometric Registration) Regulations 2008

34.—(1) The Immigration (Biometric Registration) Regulations 2008(**12**) are amended as follows.

(2) In regulation 2, at the appropriate place insert—

““retained enforceable EU right” means a right that—

- (a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and
- (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time;.”.

(3) In regulation 9 (use and retention of biometric information), in paragraph (2)(e)—

- (a) for “an enforceable EU right” substitute “a retained enforceable EU right”;
- (b) after “1972” insert “as that provision is modified from time to time”.

(4) In regulation 11 (retention of fingerprints)—

(a) in paragraph (2)(f)(ii)—

- (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
- (ii) after “1972” insert “as that provision is modified from time to time”;

(b) in paragraph (4), for “Article 16 of the Council [Directive 2004/38/EC](#)” substitute “regulation 15 of the Immigration (European Economic Area) Regulations 2016”.

Amendment of the Police Service of Scotland Regulations 2013

35. In regulation 6 of the Police Service of Scotland Regulations 2013(**13**) (qualifications for appointment to the Police Service)—

(12) [S.I. 2008/3048](#); amended by [S.I. 2015/433](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

(13) [S.S.I. 2013/35](#); amended by [S.S.I. 2013/122](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

- (a) in paragraph (1)(i), after “if not a national of” insert “the United Kingdom or”;
- (b) after paragraph (3) insert—
 - “(4) For the purposes of this regulation, “national of the United Kingdom” means—
 - (a) a British citizen;
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”.

Amendment of the Police Service of Scotland (Special Constables) Regulations 2013

36. In regulation 5 of the Police Service of Scotland (Special Constables) Regulations 2013(14) (qualifications for appointment as a special constable)—

- (a) in paragraph (1)(h), after “if not a national of” insert “the United Kingdom or”;
- (b) after paragraph (4) insert—
 - “(5) For the purposes of this regulation, “national of the United Kingdom” means—
 - (a) a British citizen;
 - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom; or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.”.

Amendment of the Immigration (Passenger Transit Visa) Order 2014

37. In article 2(6) of the Immigration (Passenger Transit Visa) Order 2014(15), in the definition of “Schengen Acquis State”, omit “United Kingdom and”.

Amendment of the Referral of Proposed Marriages and Civil Partnerships Regulations 2015

38. In Schedule 1 to the Referral of Proposed Marriages and Civil Partnerships Regulations 2015(16) (evidence of particular immigration status), in paragraph 1 (permanent residence)—

- (a) in sub-paragraph (1)—
 - (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;
 - (ii) after “1972” insert “as that provision is modified from time to time”;
- (b) in sub-paragraph (2)—
 - (i) the words after “In this paragraph” become a new sub-paragraph;
 - (ii) at the end insert—
 - ““retained enforceable EU right” means a right that—
 - (a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

(14) [S.S.I. 2013/43](#); amended by [S.S.I. 2013/122](#). There have been other amendments to the Regulations which are not relevant to these Regulations.

(15) [S.I. 2014/2702](#). There have been amendments to the Order which are not relevant to these Regulations.

(16) [S.I. 2015/123](#).

- (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.”.

Amendment of the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc) Regulations 2015

39. In regulation 18 of the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc) Regulations 2015(**17**) (prescribed information about the investigation)—

- (a) in paragraph (2)(b)(ii)—

- (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;

- (ii) after “1972” insert “as that provision is modified from time to time”;

- (b) after paragraph (2), insert—

“(3) For the purposes of paragraph (2)(b)(ii) “retained enforceable EU right” means a right that—

- (a) was created or arose by or under the EU Treaties before the time when this paragraph comes into force; and

- (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.”.

Amendment of the Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015

40. In Schedule 1 to the Sham Marriage and Civil Partnership (Scotland and Northern Ireland) (Administrative) Regulations 2015(**18**) (evidence of particular immigration status), in paragraph 1 (permanent residence)—

- (a) in sub-paragraph (1)—

- (i) for “an enforceable EU right” substitute “a retained enforceable EU right”;

- (ii) after “1972” insert “as that provision is modified from time to time”;

- (b) in sub-paragraph (2)—

- (i) the words after “In this paragraph” become a new sub-paragraph;

- (ii) at the end insert—

““retained enforceable EU right” means a right that—

- (a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force, and

- (b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time.”.

(17) S.I. 2015/397.

(18) S.I. 2015/404.

Amendment of the Immigration (Health Charge) Order 2015

41. In Schedule 2 to the Immigration (Health Charge) Order 2015⁽¹⁹⁾, in paragraph 1(l), for “an EU obligation (within the meaning of Part 2 of Schedule 1 to the European Communities Act 1972)” substitute “a retained EU obligation”.

Amendment of the Immigration and Nationality (Fees) Order 2016

42. In article 2 of the Immigration and Nationality (Fees) Order 2016⁽²⁰⁾ (interpretation)—

(a) in the definition of “European residence document”, for the words from “an enforceable EU right” to the end, substitute—

“—

(a) a retained enforceable EU right; or

(b) any provision made under section 2(2) of the European Communities Act 1972 as that provision is modified from time to time;”;

(b) at the appropriate place insert—

““retained enforceable EU right” means a right that—

(a) was created or arose by or under the EU Treaties before the time when the Immigration, Nationality and Asylum (EU Exit) Regulations 2019 come into force; and

(b) forms part of retained EU law by virtue of section 3 or 4 of the European Union (Withdrawal) Act 2018,

as that right is modified from time to time;”.

Amendment of the Immigration (European Economic Area) Regulations 2016

43.—(1) The Immigration (European Economic Area) Regulations 2016 are amended as follows.

(2) In regulation 2 (general interpretation)—

(a) in each of the definitions of “civil partnership of convenience”, “durable partnership of convenience” and “marriage of convenience”—

(i) for “other right” substitute “right”;

(ii) for “the EU Treaties” in each place it appears substitute “retained EU law”;

(b) in the definition of “EEA State”, in paragraph (a), omit “, other than the United Kingdom”.

(3) In regulation 13 (initial right of residence), in paragraph (4), after “26(3) (misuse of right to reside)” insert “, 27A (decisions taken on conducive grounds)”.

(4) In regulation 14 (extended right of residence), in paragraph (4), after “26(3)” insert “, 27A”.

(5) In regulation 23 (exclusion and removal from the United Kingdom)—

(a) in paragraph (1), after “regulation 27”, insert “or on conducive grounds in accordance with regulation 27A”;

(b) in paragraph (5), after “regulation 27”, insert “or on conducive grounds in accordance with regulation 27A”;

(c) in paragraph (6)(b), after “regulation 27”, insert “, on conducive grounds in accordance with regulation 27A or has made a deportation order in relation to the person by virtue of section 32 of the UK Borders Act 2007”;

⁽¹⁹⁾ S.I. 2015/792. There have been amendments to the Order which are not relevant to these Regulations.

⁽²⁰⁾ S.I. 2016/177. There have been amendments to the Order which are not relevant to these Regulations.

- (d) in paragraph (7)(b), after “regulation 27”, insert “, on conducive grounds in accordance with regulation 27A or if the person is subject to a deportation order by virtue of section 32 of the UK Borders Act 2007”.
- (6) In regulation 24 (refusal to issue or renew and revocation of residence documentation)—
- (a) in paragraph (1), after “public health” insert “in accordance with regulation 27, or on conducive grounds in accordance with regulation 27A”;
 - (b) in paragraph (6)(a), after “public health” insert “in accordance with regulation 27 or on conducive grounds in accordance with regulation 27A”;
 - (c) omit paragraph (7).
- (7) In regulation 25 (cancellation of a right of residence), in paragraph (2)(b), after “regulation 27”, insert “or on conducive grounds in accordance with regulation 27A”.
- (8) In regulation 26 (misuse of a right to reside), in paragraph (1)(a) omit “(as determined by reference to Council [Directive 2004/38/EC](#) and the EU Treaties)”.
- (9) After regulation 27 insert—

“Decisions taken on conducive grounds

- 27A.**—(1) An EEA decision may be taken on the ground that the decision is conducive to the public good.
- (2) But a decision may only be taken under this regulation in relation to a person as a result of conduct that took place at or after the time when this regulation comes into force.”.
- (10) In regulation 29 (person claiming right of admission), in paragraph (1)—
- (a) at the end of sub-paragraph (a)(iii), insert “or”;
 - (b) omit “or” from the end of sub-paragraph (a)(iv);
 - (c) omit sub-paragraph (a)(v).
- (11) In regulation 32 (person subject to removal), in paragraph (5), after “public health” insert “in accordance with regulation 27 or on conducive grounds under regulation 27A”.
- (12) In Schedule 1 (considerations of public policy, public security and the fundamental interests of society etc.), for paragraph (1) substitute—
- “(1) The United Kingdom enjoys considerable discretion, acting within the parameters set by the law, to define its own standards of public policy and public security, for purposes tailored to its individual context from time to time.”.
- (13) In Schedule 2 (appeals to the First-tier Tribunal), in paragraphs 1 and 2(4), for “the EU Treaties”, substitute “retained EU law”.
- (14) In Schedule 7 (consequential modifications)—
- (a) in paragraph 1, after sub-paragraph (3) insert—

“(4) In this paragraph, references to these Regulations are to these Regulations as last amended by the Immigration, Nationality and Asylum (EU Exit) Regulations 2019.”;
 - (b) in the table at the end of the paragraph, in the second column (corresponding provision in the 2016 Regulations), for “24(7)” substitute “24(1) to (6)”.

Amendment of the Short-term Holding Facility Rules 2018

- 44.**—(1) The Short-term Holding Facility Rules 2018(21) are amended as follows.

(2) In rule 12 (reasons for detention and update of claim), in paragraph (3), in each of subparagraphs (d) and (e), for “European Union law” substitute “retained EU law”.

(3) In rule 24 (correspondence), in paragraph (2)(a), omit “the Court of Justice of the European Union,”.