
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration (European Economic Area) Regulations 2000 (“the 2000 Regulations”) and establish a worker registration scheme for workers from eight of the States that are acceding to the European Union on 1st May 2004.

Part 1 of these Regulations (regulations 1 and 2) contain general provisions applicable to the Regulations. The Regulations will come into force on 1st May 2004 (*regulation 1(1)*). *Regulation 1(2) and 2* contain definitions of expressions used in the Regulations.

The amendments to the 2000 Regulations are contained in **Part 2 (regulations 3 to 6)**. On 1st May 2004, under the Accession Treaty signed at Athens on 16th April 2003, the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic will accede to the European Union. In general nationals of these States will have the same free movement rights as nationals of the existing Member States. The Accession Treaty provides, however, that existing Member States can, as a derogation from the usual position under European Community law, regulate access to their labour markets by nationals of the accession States (other than nationals of the Republic of Cyprus and the Republic of Malta). This derogation can be applied for a transitional period of five years from accession (with provision for a further two years in the case of disturbances to the labour markets). The existing Member States can derogate from the Community free movement rights of workers for this purpose during the transitional period.

Regulation 3 amends the definition of “EEA State” in regulation 2(1) of the 2000 Regulations so that it will include the accession States. This will extend the European Community free movement rights, transposed by the 2000 Regulations, to accession State nationals and their family members, subject to the qualifications made in relation to accession State workers.

Regulation 4 gives effect to the derogation provided for in the Accession Treaty to regulate access to the United Kingdom labour market by accession State nationals. Under regulation 4(2), nationals from the relevant accession States who come to the United Kingdom to seek work during the transitional period will not have a right to reside in the United Kingdom by virtue of that work seeker status. This is, however, without prejudice to their right to reside in the United Kingdom whilst looking for work if they are self-sufficient (regulation 4(3)). *Regulation 5* modifies the application of the 2000 Regulations to workers from the relevant accession States who are “accession State workers requiring registration”, as defined in regulation 2. Under regulations 5(2) to (4) such workers will generally only have a right of residence in the UK as workers under the 2000 Regulations during a period in which they are working for an employer for whom they are authorised to work under the workers registration scheme in Part 3 of these Regulations. Whilst they require registration neither they nor their family members will be entitled to a residence permit or document (regulations 5(5) and (6)).

Regulation 6 makes transitional provision to take account of the fact that on 1st May 2004 nationals from the accession States and their family members will fall to be treated under the 2000 Regulations for immigration purposes rather than under the Immigration Act 1971 regime.

Part 3 (regulations 7 to 9) sets out the accession State worker registration scheme, which will apply to accession State workers requiring registration. Under *regulation 7* workers requiring registration who are already in legal employment on 30th April 2004 can continue to work for the employer concerned without further registration. Workers requiring registration who begin work on or after 1st May 2004 have to apply, within one month of beginning working, for a registration certificate

Status: This is the original version (as it was originally made).

authorising them to work for the employer concerned if they are to be authorised to work for that employer for more than a month. Special provision is made in regulation 7(4) in relation to seasonal agricultural workers until 31st December 2004. *Regulation 8* sets out the registration procedure. Workers requiring registration will be issued with a registration card and a registration certificate authorising them to work for the employer concerned. A fee of £50 will be charged for the first registration to cover the administrative costs of registration. *Regulation 9* makes it an offence for an employer to employ a worker who is not authorised under the registration scheme to work for that employer.