

## SCHEDULE 3

Regulation 4

### Transitional Provisions

#### Interpretation

**1.** In this Schedule—

- (a) the “2006 Regulations” means the Immigration (European Economic Area) Regulations 2006; and
- (b) the terms “EEA family permit”, “EEA State”, “family member”, “registration certificate” and “residence card” have the meanings given in regulation 2(1) of the 2006 Regulations.

#### Amendments to the definition of EEA national

**2.—(1)** Where the right of a family member (“F”) to be admitted to, or reside in, the United Kingdom pursuant to the 2006 Regulations depends on the fact that a person (“P”) is an EEA national, P will, notwithstanding the effect of paragraph 1(d) of Schedule 1 to these Regulations, continue to be regarded as an EEA national for the purpose of the 2006 Regulations where the criteria in subparagraphs (2), (3) or (4) are met and for as long as they remain satisfied in accordance with subparagraph (5).

(2) The criterion in this subparagraph is met where F was on 16th July 2012 a person with a permanent right to reside in the United Kingdom under the 2006 Regulations.

(3) The criteria in this subparagraph are met where F—

- (a) was on the 16th July 2012 a person with a right to reside in the United Kingdom under the 2006 Regulations; and
- (b) on the 16th October 2012—
  - (i) held a valid registration certificate or residence card issued under the 2006 Regulations;
  - (ii) had made an application under the 2006 Regulations for a registration certificate or residence card which had not been determined; or
  - (iii) had made an application under the 2006 Regulations for a registration certificate or residence card which had been refused and in respect of which an appeal under regulation 26 could be brought while the appellant is in the United Kingdom (excluding the possibility of an appeal out of time with permission) or was pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002(1)).

(4) The criteria in this subparagraph are met where F—

- (a) had, prior to the 16th July 2012, applied for an EEA family permit pursuant to regulation 12 of the 2006 Regulations; or
- (b) has applied for and been refused an EEA family permit and where, on the 16<sup>th</sup> July 2012, an appeal under regulation 26 against that decision could be brought (excluding the possibility of an appeal out of time with permission) or was pending (within the meaning of section 104 of the 2002 Act).

(5) Where met, the criteria in subparagraph (2), (3) and (4) remain satisfied until the occurrence of the earliest of the following events—

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(1) [2002 c.41](#); section 104 was amended by paragraphs 20(a) and (b) of Schedule 2(1) to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ([c.19](#)), by section 9 of the Immigration, Asylum and Nationality Act 2006 ([c.13](#)), and by paragraphs 26(a) and (b) of Schedule 1 to [S.I. 2010/21](#).

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

- (a) the date six months after an EEA family permit has been issued if F has not within that period been admitted to the United Kingdom;
  - (b) the date on which an appeal against a decision referred to in subparagraph (3)(b)(iii) or (4)(b) can no longer be brought (ignoring the possibility of an appeal out of time with permission) where no such appeal has been brought;
  - (c) the date on which any appeal against a decision referred to in subparagraph (3)(b)(iii) or (4)(b) is finally determined, is withdrawn or is abandoned (within the meaning of section 104 of the 2002 Act) (save where the outcome of the appeal process is that the document in question falls to be granted);
  - (d) the date on which F ceases to be the family member of an EEA national; or
  - (e) the date on which a right of permanent residence under regulation 15 of the 2006 Regulations is lost in accordance with regulation 15(2) of those Regulations.
- (6) P will only continue to be regarded as an EEA national for the purpose of considering the position of F under the 2006 Regulations.