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STATUTORY INSTRUMENTS

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**2015 No. 371**

**The Immigration Act 2014 (Commencement No. 4, Transitional and Saving Provisions and Amendment) Order 2015**

**PART 3**

**Amendment of the Commencement Order and revocation of the Immigration Act 2014 (Transitional and Saving Provisions) Order 2014**

**Amendments coming into force on 6th April 2015**

**8.—**(1) The Commencement Order is amended as follows.

(2) For article 9 substitute—

**“9.—**(1) Notwithstanding the commencement of the relevant provisions, the saved provisions continue to have effect and the relevant provisions do not have effect so far as they relate to the following decisions of the Secretary of State—

- (a) a decision made on or after 6th April 2015 to refuse an application to vary leave to enter or remain made before 20th October 2014 where the person was seeking leave to remain as a Tier 4 Migrant or as the family member of a Tier 4 Migrant and where the result of that decision is that the applicant has no leave to enter or remain;
- (b) a decision made on or after 6th April 2015 to refuse an application to vary leave to enter or remain made before 2nd March 2015 where the person was seeking leave to remain as a Tier 1 Migrant or (as the case may be), Tier 2 Migrant or Tier 5 Migrant or as the family member of a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant and where the result of that decision is that the applicant has no leave to enter or remain;
- (c) a decision made on or after 6th April 2015 (so far as that is not a decision mentioned in sub-paragraph (a) or (b)) to refuse an application made before 6th April 2015, where that decision is—
  - (i) to refuse leave to enter;
  - (ii) to refuse entry clearance;
  - (iii) to refuse a certificate of entitlement under section 10 of the 2002 Act<sup>(1)</sup>;
  - (iv) to refuse to vary a person’s leave to enter or remain and where the result of that decision is that the person has no leave to enter or remain;

unless that decision is also a refusal of an asylum, protection or human rights claim.

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(1) 2002 c. 41; section 10 was amended by sections 50, 52 and 61 of and Schedules 2 and 3 to the Immigration, Asylum and Nationality Act 2006.

- (d) a decision made before 6th April 2015 in relation to which, immediately before 6th April 2015, an appeal could have been brought or was pending under the saved provisions.
- (2) In paragraph (1)—
  - (a) an application as the family member of a Tier 4 Migrant means an application under paragraph 319C or 319H of the immigration rules;
  - (b) an application as the family member of a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant means an application under paragraph 319C, 319E, 319H or 319J of the immigration rules.
- (3) In this article—
  - “entry clearance” has the same meaning as in section 33(1) of the 1971 Act<sup>(2)</sup>;
  - “human rights claim” has the same meaning as in section 113 of the 2002 Act<sup>(3)</sup>;
  - “immigration rules” means the rules for the time being laid down by the Secretary of State as mentioned in section 3(2) of the 1971 Act;
  - “leave to enter” means leave to enter the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act;
  - “leave to remain” means leave to remain in the United Kingdom given in accordance with the provisions of, or made under, the 1971 Act and any variation of leave to enter or remain by the Secretary of State;
  - “pending” has the same meaning as in section 104 of the 2002 Act<sup>(4)</sup>;
  - “protection claim” has the same meaning as in section 82(2) of the 2002 Act;
  - “Tier 1 Migrant”, “Tier 2 Migrant”, “Tier 4 Migrant” and “Tier 5 Migrant” have the same meanings as in the immigration rules.”
- (3) Omit article 10.
- (4) In article 11, omit paragraphs (1), (1A), (2), (3) and (5) (a) and (c) to (i).
- (5) Omit article 13.

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(2) 1971 c. 77; the definition of “entry clearance” in section 33(1) was amended by paragraph 2 of Schedule 4 to the British Nationality Act 1981 (c. 61) and paragraph 5 of the Schedule to the Immigration Act 1988 (c. 14).

(3) 2002 c. 41; the relevant part of s113 was amended by sections 12(1) and (3) of the Immigration, Asylum and Nationality Act 2006 although these amendments have not been brought into force and section 73(6) of and Schedule 9 to the Immigration Act 2014.

(4) 2002 c. 41; section 104 was amended by the Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), sections 26 and 47 of and Schedules 2 and 4 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 9 of the Immigration, Asylum and Nationality Act 2006 and section 73(6) of and Schedule 9 to the Immigration Act 2014.