

SCHEDULE 1

Regulation 4

Amendments to the 2006 Regulations

Regulation 2 (general interpretation)

1. In regulation 2(1)—
 - (a) in the appropriate place, insert ““the 2014 Act” means the Immigration Act 2014(1);”;
 - (b) in the definition of “qualifying EEA State residence card”—
 - (i) in sub-paragraph (a), for “a document” substitute “a valid document”; and
 - (ii) in sub-paragraph (b), for “Germany and Estonia” substitute “any EEA State, except Switzerland”.

Regulation 4 (“worker”, “self-employed person”, “self-sufficient person” and “student”)

2. In regulation 4—
 - (a) in paragraph (2), after “(1)(c)”, insert “ or (d)”;
 - (b) omit paragraph (3);
 - (c) in paragraph (4), for “paragraphs (2) and (3)” substitute “paragraph (2)”.

Regulation 11 (right of admission to the United Kingdom)

3. In regulation 11(8), after “(2)” insert “and 23A”.

Regulation 13 (initial right of residence)

4. In regulation 13(4)—
 - (a) after “Secretary of State”, insert “or an immigration officer”;
 - (b) in sub-paragraph (a), for “ or 20A(1)” substitute “, 20A(1) or 23A”.

Regulation 14 (extended right of residence)

5. In regulation 14(5)—
 - (a) after “Secretary of State”, insert “or an immigration officer”;
 - (b) in sub-paragraph (a), for “ or 20A(1)” substitute “, 20A(1) or 23A”.

Regulation 15 (permanent right of residence)

6. In regulation 15(3)—
 - (a) after “Secretary of State”, insert “or an immigration officer”;
 - (b) in sub-paragraph (a), for “ or 20A(1)” substitute “, 20A(1) or 23A”.

Regulation 15A (derivative right of residence)

7. In regulation 15A(9)—
 - (a) after “Secretary of State”, insert “or an immigration officer”;
 - (b) in sub-paragraph (a), for “ or 20A(1)” substitute “, 20A(1) or 23A”.

(1) 2014 c. 22.

Regulation 20 (refusal to issue or renew and revocation of residence documentation)

8. In regulation 20(1A)—

- (a) after “regulation 19(3)”, insert “or 24(4)”;
- (b) after “United Kingdom”, insert “, or a decision under regulation 23A to revoke a person’s admission to the United Kingdom,”.

New regulation 23A (revocation of admission)

9. After regulation 23, insert—

“Revocation of admission

23A.—(1) This regulation applies to a person admitted to the United Kingdom under regulation 11 in circumstances where, pursuant to regulation 19(1) (exclusion justified on grounds of public policy, public security or public health), (1A) (person subject to deportation order or exclusion order) or (1AB) (reasonable grounds to suspect that admission would lead to the abuse of a right to reside), that person was not entitled to be admitted.

(2) Paragraph 6(2) of Schedule 2 to the 1971 Act⁽²⁾ (administrative provisions as to control on entry: refusal of leave to enter) applies to a person to whom this regulation applies, as though the references—

- (a) to that person’s examination under paragraph 2 of Schedule 2 to the 1971 Act⁽³⁾ were to that paragraph as applied by regulation 22(2)(a) and (c) of these Regulations;
- (b) to notices of leave to enter the United Kingdom were to a decision to admit that person to the United Kingdom under these Regulations;
- (c) to the cancellation of such a notice and the refusal of leave to enter were to revocation of the decision to admit that person to the United Kingdom under this regulation.

(3) Where a person’s admission to the United Kingdom is revoked, that person is to be treated as a person to whom admission to the United Kingdom has been refused and regulation 23 applies accordingly.”.

Regulation 24 (person subject to removal)

10. In regulation 24, in paragraph (4), after “exclusion order” insert “, or in circumstances where that person was not entitled to be admitted pursuant to regulation 19(1) or (1AB),”.

Regulation 25 (interpretation of Part 6 of the 2006 Regulations)

11. In regulation 25(1), omit the definitions of “Asylum claim” and “Human rights claim”.

Regulation 26 (appeal rights)

12. In regulation 26, after paragraph (7), insert—

“(8) For the avoidance of doubt, nothing in this Part prevents a person who enjoys a right of appeal under this regulation from appealing to the First-tier Tribunal under section 82(1)

(2) 1971 c. 77; paragraph 6(2) of Schedule 2 was amended by paragraph 7(1) of the Schedule to the Immigration Act 1988 (c. 14).
(3) Paragraph 2 of Schedule 2 was amended by paragraph 2 of Schedule 4 to the British Nationality Act 1981 (c. 61); paragraph 56 of Schedule 14 to the Immigration and Asylum Act 1999 (c. 33); and by S.I. 1993/1813.

of the 2002 Act⁽⁴⁾ (right of appeal to the Tribunal), or, where relevant, to the Commission pursuant to section 2 of the Special Immigration Appeals Act 1997⁽⁵⁾ (jurisdiction of the Commission: appeals), provided the criteria for bringing such an appeal under those Acts are met.”.

Regulation 27 (out of country appeals)

13. In regulation 27—

- (a) after paragraph (1)(a), insert—
 - “(zaa) to revoke his admission to the United Kingdom;”;
- (b) in paragraph (1)(d), after “exclusion order” insert “, or in circumstances where that person was not entitled to be admitted pursuant to regulation 19(1) or (1AB)”;
- (c) in paragraph (2)—
 - (i) for “(1)(a) and (aa)” substitute “(1)(a) to (aa)”;
 - (ii) after sub-paragraph (a), insert “or”;
 - (iii) in sub-paragraph (b), at the end, for “,” substitute “.”; and
- (d) omit paragraphs (2)(c) (asylum or human rights claim made in the United Kingdom) and (3) (certain appeals raising asylum and human rights claims may be brought from within the United Kingdom).

Regulation 29 (effect of appeals to the First-tier Tribunal or Upper Tribunal)

14. In regulation 29, in paragraph (4), after “admit him”, insert “, or a decision to revoke his admission,”.

Schedule 1 (Appeals to the First-tier Tribunal)

15. In paragraph 1 of Schedule 1, for “against an immigration decision under section 82(1) of that Act” to “sections 85 to 87;” substitute—

“against a decision of the Secretary of State under section 82(1) of the 2002 Act⁽⁶⁾ (right of appeal to the Tribunal)—”

section 84⁽⁷⁾ (grounds of appeal), as though the sole permitted ground of appeal were that the decision breaches the appellant’s rights under the EU Treaties in respect of entry to or residence in the United Kingdom (“an EU ground of appeal”);

section 85⁽⁸⁾ (matters to be considered), as though—

- (i) the references to a statement under section 120⁽⁹⁾ of the 2002 Act include, but are not limited to, a statement under that section as applied by paragraph 4 of Schedule 2 to these Regulations; and

(4) Section 82(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) was amended by section 15(2) of the Immigration Act 2014.

(5) 1997 c. 68; section 2 was amended by Schedule 7 to the Nationality, Immigration and Asylum Act 2002, paragraph 14 of Schedule 1 to the Immigration, Asylum and Nationality Act 2006 (c. 13), and paragraphs 2 and 26 of Schedule 9 to the Immigration Act 2014.

(6) Section 82 of the Nationality, Immigration and Asylum Act 2002 was amended by section 15(2) of the Immigration Act 2014.

(7) Section 84 of the Nationality, Immigration and Asylum Act 2002 was amended by section 15(4) of the Immigration Act 2014.

(8) Section 85 of the Nationality, Immigration and Asylum Act 2002 was amended by section 15(5) of, and paragraph 34 of Schedule 9 to, the Immigration Act 2014.

(9) Section 120 of the Nationality, Immigration and Asylum Act 2002 was amended by paragraph 55 of Schedule 9 to the Immigration Act 2014.

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

- (ii) a “matter” in subsection (2) and a “new matter” in subsection (6) include a ground of appeal of a kind listed in section 84 of the 2002 Act and an EU ground of appeal; section 86(10) (determination of appeal);”.

Schedule 2 (effect on other legislation)

16. In Schedule 2, in paragraph 4 (appeals under the Nationality, Immigration and Asylum Act 2002 and previous immigration Acts)—

- (a) omit sub-paragraphs (1) to (7) and (9);
- (b) for sub-paragraph (8), substitute—

“(8) Section 120 of the 2002 Act applies to a person (“P”) if an EEA decision has been taken or may be taken in respect of P and, accordingly, the Secretary of State or an immigration officer may by notice require a statement from P under subsection (2) of that section, and that notice has effect for the purpose of section 96(2) of the 2002 Act(11).

(9) Where section 120 of the 2002 Act so applies, it has effect as though—

- (a) subsection (3) also provides that a statement under subsection (2) need not repeat reasons or grounds relating to the EEA decision under challenge previously advanced by P; and
- (c) subsection (5) also applies where P does not have a right to reside in the United Kingdom under these Regulations, or only has such a right to reside by virtue of regulation 15B of these Regulations (continuation of a right of residence).

(10) For the purposes of an appeal brought pursuant to section 82(1) of the 2002 Act, subsections (2) and (6)(a) of section 85 (matters to be considered) have effect as though section 84 included a ground of appeal that the decision appealed against breaches the appellant’s rights under the EU Treaties in respect of entry to or residence in the United Kingdom.”.

(10) Section 86 of the Nationality, Immigration and Asylum Act 2002 was amended by paragraph 18(1)(b) of Schedule 2 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), and paragraph 36 of Schedule 9 to the Immigration Act 2014.

(11) Section 96(2) was amended by paragraph 41(3) of Schedule 9 to the Immigration Act 2014.