

SCHEDULE 6

Regulation 45

TRANSITIONAL PROVISIONS

Interpretation

1.—(1) In this Schedule, “permission to be temporarily admitted in order to make submissions in person” means—

- (a) in relation to the 2006 Regulations, permission to be temporarily admitted under regulation 29AA(2) of the 2006 Regulations;
- (b) in relation to these Regulations, permission to be temporarily admitted under regulation 41(2).

(2) References to documents applied for or issued under the 2006 Regulations are to those documents as defined in regulation 2(1) of the 2006 Regulations.

Existing documents

2.—(1) An EEA family permit issued under regulation 12 of the 2006 Regulations before 1st February 2017 is to be treated as an EEA family permit issued under regulation 12 of these Regulations.

(2) Any document issued or treated as though issued under Part 3 of the 2006 Regulations is to be treated as though issued under Part 3 of these Regulations.

(3) Nothing in this paragraph extends the validity of any document issued under the 2006 Regulations beyond that document’s original period of validity.

Verification of a right of residence

3. Where, before 1st February 2017, the Secretary of State had invited a person to provide evidence or information or to attend an interview under regulation 20B of the 2006 Regulations (verification of a right of residence), the Secretary of State’s invitation is to be treated as though made under regulation 22 of these Regulations.

Outstanding applications

4.—(1) An application for—

- (a) an EEA family permit;
- (b) a registration certificate;
- (c) a residence card;
- (d) a document certifying permanent residence;
- (e) a permanent residence card;
- (f) a derivative residence card; or
- (g) permission to be temporarily admitted in order to make submissions in person;

made but not determined before 1st February 2017 is to be treated as having been made under these Regulations.

(2) But regulation 21 and the words in parentheses in paragraph (b) of the definition of an EEA decision in regulation 2(1) are of no application to such an application made before 1st February 2017

Removal decisions, deportation orders and exclusion orders under the 2006 Regulations

5.—(1) A decision to remove a person under regulation 19(3)(a), (b) or (c) of the 2006 Regulations must, upon the coming into force of Part 4 of these Regulations in its entirety, be treated as a decision to remove that person under regulation 23(6) (a), (b) or (c) of these Regulations, as the case may be.

(2) A deportation order made under regulation 24(3) of the 2006 Regulations must be treated as a deportation order made under regulation 32(3) of these Regulations.

(3) Until the coming into force of Part 4 in its entirety, a deportation order to which sub-paragraph (2) applies has effect until revoked by the Secretary of State.

(4) An exclusion order made under regulation 19(1B) of the 2006 Regulations must, upon the coming into force of Part 4 in its entirety, be treated as though having been made under regulation 23(5) of these Regulations.

(5) A person removed under regulation 19(3)(a) of the 2006 Regulations before 1st February 2017 is to be taken into account for the purposes of regulation 26(2).

(6) Where sub-paragraph (5) applies to a person, regulation 26 has effect as though the references to “12” were to “36”.

Certification under regulations 24AA and 29AA of the 2006 Regulations

6.—(1) Where the Secretary of State certified under regulation 24AA of the 2006 Regulations (human rights considerations and interim orders to suspend removal) that a person’s removal from the United Kingdom would not be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to the Human Rights Convention), the removal of that person is to be treated as though certified under regulation 33 of these Regulations.

(2) Where sub-paragraph (1) applies, certification treated as though given under regulation 33 does not amount to certification under that regulation for the purposes of paragraph 2(1)(b) of Schedule 2 to these Regulations (appeals to the First-tier Tribunal).

(3) Where the Secretary of State granted a person permission to be temporarily admitted to the United Kingdom to make submissions in person under regulation 29AA of the 2006 Regulations, that permission is to be treated as though given under regulation 41 of these Regulations.

(4) A person temporarily admitted to the United Kingdom in order to make submissions in person under regulation 29AA(6) of the 2006 Regulations is to be treated as though having been temporarily admitted under regulation 41(6) of these Regulations.

Appeals to the Commission

7. Where the Secretary of State certified an EEA decision under regulation 28(2) of the 2006 Regulations (appeals to the Special Immigration Appeals Commission) before 1st February 2017, that EEA decision is to be treated as though having been certified under regulation 38(2) of these Regulations.

Periods of residence prior to the coming into force of these Regulations

8.—(1) Any period of time during which an EEA national (“P”) resided in the United Kingdom in accordance with the conditions listed in sub-paragraphs (2) or (3) is to be taken into account for the purpose of calculating periods of residence in the United Kingdom in accordance with these Regulations.

(2) The condition in this paragraph is that P resided in, or was treated as though having resided in, the United Kingdom in accordance with—

- (a) the Immigration (European Economic Area) Regulations 2000⁽¹⁾; or
 - (b) the 2006 Regulations.
- (3) The condition in this paragraph is that P resided in the United Kingdom in circumstances where—
- (a) P was a national of a State which at that time was not an EEA State;
 - (b) P had leave to enter or remain in the United Kingdom under the 1971 Act for the duration of P's residence; and
 - (c) P would have been residing in the United Kingdom in accordance with these Regulations, had P's State of origin been an EEA State at that time, and had these Regulations been in force.
- (4) Any period during which P resided in the United Kingdom in circumstances which met the conditions in sub-paragraph (2) or (3) is not to be taken into account for the purposes of sub-paragraph (1) where that residence was followed by a period of at least two continuous years during which—
- (a) P was absent from the United Kingdom; or
 - (b) P's residence in the United Kingdom—
 - (i) did not meet the conditions in sub-paragraph (2) or (3); or
 - (ii) was not otherwise in accordance with these Regulations.

⁽¹⁾ S.I. 2000/2326, amended by S.I. 2001/865, 2003/549, 3188, 2005/47 and 671.