

SCHEDULE

Regulation 2

Amendments to the 2016 Regulations

Regulation 2 (general interpretation)

1. In regulation 2(1), for the definition of “EEA national” substitute—

““EEA national” means—

- (a) a national of an EEA State who is not also a British citizen; or
- (b) a national of an EEA State who is also a British citizen and who prior to acquiring British citizenship exercised a right to reside as such a national, in accordance with regulation 14 or 15,

save that a person does not fall within paragraph (b) if the EEA State of which they are a national became a member State after that person acquired British citizenship.”

Regulation 6 (“qualified person”)

2. In regulation 6—

- (a) in paragraph (1), in paragraph (a) of the definition of “relevant period” after “(2)(b)” insert “or self-employed person status under paragraph (4)(b)”;

- (b) for paragraph (4) substitute—

“(4) A person who is no longer in self-employment must continue to be treated as a self-employed person provided that the person—

- (a) is temporarily unable to engage in activities as a self-employed person as the result of an illness or accident;
- (b) is in duly recorded involuntary unemployment after having worked as a self-employed person in the United Kingdom for at least one year provided the person—
 - (i) has registered as a jobseeker with the relevant employment office; and
 - (ii) satisfies conditions D and E;
- (c) is in duly recorded involuntary unemployment after having worked as a self-employed person in the United Kingdom for less than one year, provided the person—
 - (i) has registered as a jobseeker with the relevant employment office; and
 - (ii) satisfies conditions D and E;
- (d) is involuntarily no longer in self-employment and has embarked on vocational training; or
- (e) has voluntarily ceased self-employment and has embarked on vocational training that is related to the person’s previous occupation.

(4A) A person to whom paragraph (4)(c) applies may only retain self-employed person status for a maximum of six months.

(4B) Condition D is that the person—

- (a) entered the United Kingdom as a self-employed person or in order to seek employment as a self-employed person; or
- (b) is present in the United Kingdom seeking employment or self-employment, immediately after enjoying a right to reside under sub-paragraphs (c) to (e) of the

Status: This is the original version (as it was originally made).

definition of qualified person in paragraph (1) (disregarding any period during which self-employed status was retained pursuant to paragraph (4)(b) or (c)).

(4C) Condition E is that the person provides evidence of seeking employment or self-employment and having a genuine chance of being engaged.”;

- (c) in paragraph (5)(b), for “sub-paragraphs (b) to (e)” substitute “sub-paragraphs (b), (d) or (e)”;
- (d) at the end of paragraph (7)(a) omit “or”;
- (e) after paragraph (7)(b) insert “or (c) a self-employed person under paragraph (4)(b)”;
- (f) in paragraph (8)—
 - (i) after “conditions A and B” insert “or, as the case may be, conditions D and E”; and
 - (ii) in paragraph (a), after “or (c)” insert “or (4)(b) or (c)”;
- (g) in paragraph (10)(b), after “condition B” insert “or, as the case may be, condition E”.

Regulation 9 (family members of British citizens)

3. In regulation 9—

- (a) omit “and” at the end of paragraph (2)(b);
- (b) after paragraph (2)(c), insert—
 - “(d) F was a family member of BC during all or part of their joint residence in the EEA State; and
 - (e) genuine family life was created or strengthened during their joint residence in the EEA State”.

New regulation 9A (Dual national: national of an EEA State who acquires British citizenship)

4. After regulation 9 insert—

“9A Dual national: national of an EEA State who acquires British citizenship

(1) In this regulation “DN” means a person within paragraph (b) of the definition of “EEA national” in regulation 2(1).

(2) DN who comes within the definition of “qualified person” in regulation 6(1) is only a qualified person for the purpose of these Regulations if DN—

- (a) came within the definition of “qualified person” at the time of acquisition of British citizenship; and
- (b) has not at any time subsequent to the acquisition of British citizenship lost the status of qualified person.

(3) Regulation 15 only applies to DN, or to the family member of DN who is not an EEA national, if DN satisfies the condition in paragraph (4).

(4) The condition in this paragraph is that at the time of acquisition of British citizenship DN either—

- (a) was a qualified person; or
- (b) had acquired a right of permanent residence in accordance with these Regulations.”

Regulation 11 (right of admission to the United Kingdom)

5. In regulation 11, after paragraph (8) insert—

“(9) A person is not entitled to be admitted by virtue of this regulation where that person is subject to a decision under regulation 23(6)(b) (removal decision).”.

Regulation 12 (issue of EEA family permit)

6. In regulation 12, after paragraph (5) insert—

“(5A) An EEA family permit issued under this regulation may be issued in electronic form.”.

Regulation 13 (initial right of residence)

7. In regulation 13, in paragraph (4), for “unless that decision is set aside or otherwise no longer has effect”, substitute “or an order under regulation 23(5) (exclusion order) or 32(3) (deportation order), unless that decision or order, as the case may be, is set aside, revoked or otherwise no longer has effect”.

Regulation 14 (extended right of residence)

8. In regulation 14, in paragraph (4), for “unless that decision is set aside or otherwise no longer has effect”, substitute “or an order under regulation 23(5) (exclusion order) or 32(3) (deportation order), unless that decision or order, as the case may be, is set aside, revoked or otherwise no longer has effect”.

Regulation 15 (right of permanent residence)

9. In regulation 15, in paragraph (4), for “unless that decision is set aside or otherwise no longer has effect”, substitute “or an order under regulation 23(5) (exclusion order) or 32(3) (deportation order), unless that decision or order, as the case may be, is set aside, revoked or otherwise no longer has effect”.

Regulation 16 (derivative right to reside)

10. In regulation 16(8)(b)(ii), omit “who is not an exempt person”.

Regulation 21 (procedure for applications for documentation under this Part and regulation 12)

11. In regulation 21(1)—

(a) in paragraph (2)(a) omit “or joined”;

(b) after paragraph (4) insert—

“(4A) An application for documentation under this Part, or for an EEA family permit under regulation 12, is invalid where the person making the application is subject to a removal decision made under regulation 23(6)(b), a deportation order made under regulation 32(3) or an exclusion order made under regulation 23(5).”.

(c) in paragraph (5) omit “or joined”.

(1) Regulation 21 was amended by [S.I. 2017/1](#).

Regulation 24 (refusal to issue or renew and revocation of residence documentation)

12. In regulation 24(2), in paragraph (6), after “EEA family permit” insert “, including one issued in electronic form.”.

Regulation 27 (decisions taken on grounds of public policy, public security and public health)

13. In regulation 27(4)(a), at the beginning insert “has a right of permanent residence under regulation 15 and who”.

Regulation 36 (appeal rights)

14. In regulation 36, after paragraph (11) insert—

“(12) Where there is a requirement under this regulation to produce an EEA family permit—

- (a) where notice of appeal is given electronically, the permit may be produced either in paper or electronic form;
- (b) in all other cases, the permit must be produced in paper form.”.

Regulation 37 (out of country appeals)

15. In regulation 37, for paragraph (2)(a) substitute—

“(a) the person, not being a person who is deemed not to have been admitted to the United Kingdom under regulation 29(3)(3)—

- (i) holds a valid EEA family permit, registration certificate, residence card, derivative residence card, document certifying permanent residence, permanent residence card or qualifying EEA State residence card on arrival in the United Kingdom; or
- (ii) can otherwise prove that the person is resident in the United Kingdom; or”.

(2) Regulation 24 was amended by [S.I. 2017/1](#).

(3) Regulation 29(3) was substituted by [S.I. 2017/1242](#).