
STATUTORY INSTRUMENTS

2019 No. 686

**EXITING THE EUROPEAN UNION
IMMIGRATION**

**The Immigration (European Economic
Area Nationals) (EU Exit) Order 2019**

Made - - - - 26th March 2019
Coming into force in accordance with article 1(2) and (3)

The Secretary of State, in exercise of the powers conferred by sections 3A(1), (2), (7) and (10) and 3B(1), (2) and (3) of the Immigration Act 1971 ^{M1}, sections 11(1)(a) and (e) and 34(4) of the Channel Tunnel Act 1987 ^{M2}, sections 126(1) and 141(1), (2) and (4)(b) of the Nationality, Immigration and Asylum Act 2002 ^{M3} and section 38(1) and (3)(e) of the Immigration Act 2014 ^{M4} makes the following Order.

In accordance with sections 3A(13) and 3B(6) of the Immigration Act 1971, section 34(3) of the Channel Tunnel Act 1987, sections 126(8)(b) and 141(5) of the Nationality, Immigration and Asylum Act 2002 and section 74(2)(b) of the Immigration Act 2014, a draft of this Order was laid before and approved by a resolution of each House of Parliament.

In accordance with section 141(5)(b) of the Nationality, Immigration and Asylum Act 2002, the Secretary of State has considered whether there is anyone with whom it would be appropriate to consult and has concluded that there is not.

Marginal Citations

- M1** 1971 c. 77. Sections 3A and 3B were inserted by sections 1 and 2 of the [Immigration and Asylum Act 1999 \(c. 33\)](#) respectively.
- M2** 1987 c. 53. Section 13 provides that the power in section 11 may be exercised by the Minister in charge of the Government department concerned with the matter in respect of which provision is being made.
- M3** 2002 c. 41. Section 126 was amended by sections 8 and 14(3) of, paragraph 3 of Schedule 2 to and paragraph 19 of Schedule 9 to the [Immigration Act 2014 \(c. 22\)](#). Subsections (3) to (7) and (8A) of section 126 make further provision about the powers in subsection (1). See subsection (2) for the definition of “immigration application” and subsection (9) for the definitions of “authorised person”, “biometric information” and “document”.
- M4** 2014 c. 22.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Immigration (European Economic Area Nationals) (EU Exit) Order 2019. (See end of Document for details)

PART 1

Introduction

Citation and commencement

1.—(1) This Order may be cited as the Immigration (European Economic Area Nationals) (EU Exit) Order 2019.

(2) Chapter 1 of Part 2 of this Order comes into force when the Immigration (European Economic Area) Regulations 2016^{M5} are revoked.

(3) The remaining provisions of this Order come into force on the later of 30th March 2019 or the day after the day on which they are made.

Commencement Information

II Art. 1 in force at 30.3.2019, see [art. 1\(3\)](#)

Marginal Citations

M5 [S.I. 2016/1052](#).

PART 2

Leave to enter or remain

^{F1}Chapter 1

Grant of leave to EEA and Swiss nationals

F1 Pt. 2 Ch. 1 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2)(a), [47\(2\)](#)

Interpretation

2.

Grant of leave to EEA and Swiss nationals

3.

Persons who may not obtain leave under article 3

4.

Nature of leave granted by virtue of article 3

5.

Duration and condition of leave

6.

Chapter 2

Appendix EU to the immigration rules

Grant of leave by virtue of Appendix EU to the immigration rules

7. The Secretary of State may give or refuse leave to enter the United Kingdom to any person who seeks leave to enter the United Kingdom by virtue of Appendix EU to the immigration rules ^{M6}.

Commencement Information

I2 Art. 7 in force at 30.3.2019, see [art. 1\(3\)](#)

Marginal Citations

M6 Appendix EU was laid before Parliament on 20th July 2018 (CM 9675).

Amendments to the Immigration (Leave to Enter and Remain) Order 2000

8.—(1) The Immigration (Leave to Enter and Remain) Order 2000 ^{M7} is amended as follows.

(2) In article 1(3) (interpretation) at the appropriate places insert the following definitions—

““Crown service” means service of the Crown, whether within Her Majesty's dominions or elsewhere, under Her Majesty's government in the United Kingdom or in a Northern Ireland department or under the Scottish Administration or under the Welsh Government;”;

““Her Majesty's Forces” has the same meaning as in the Armed Forces Act 2006 ^{M8}.”;

(3) In article 13(4) (lapsing of leave)—

(a) before sub-paragraph (a), insert—

“(za) where the holder has unlimited leave granted by virtue of Appendix EU to the immigration rules (including unlimited leave granted by virtue of Appendix EU before this paragraph comes into force), subject to article 13C, the unlimited leave lapses if the holder stays outside the United Kingdom and Islands for a continuous period of more than—

(i) four years, in the case of unlimited leave granted by virtue of Appendix EU to the immigration rules as a Swiss national or a family member of a Swiss national;

(ii) five years, in all other cases;”;

(b) in sub-paragraph (a), for “subject to articles 13A and 13B”, substitute “ in any other case and subject to articles 13A, 13B and 13C ”;

(c) in both places, after “United Kingdom” insert “ and Islands ”.

(4) In article 13A (partners and children of members of HM Forces)—

(a) in paragraph (1), after “United Kingdom” insert “ and Islands ”;

(b) omit paragraph (4).

(5) In article 13B (partners and children of certain Crown servants etc)—

(a) in the heading, omit “certain”;

(b) in paragraph (1)(b), after “indefinite leave” insert “ , other than unlimited leave granted by virtue of Appendix EU to the immigration rules ”;

(c) in paragraph (2)(a), after “United Kingdom” insert “ and Islands ”;

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- (d) in paragraph (3), for sub-paragraph (b) substitute—
 “(b) employment on Crown service.”.
- (6) After article 13B, insert—

“Crown servants etc with leave granted by virtue of Appendix EU to the immigration rules

13C.—(1) Any period of time spent outside the United Kingdom and Islands by a person to whom this article applies does not count towards the period mentioned in article 13(4)(za) or 13(4)(a).

(2) This article applies to a person who has leave granted by virtue of Appendix EU to the immigration rules and who is—

- (a) a member of Her Majesty's Forces posted outside the United Kingdom and Islands;
- (b) a national of a member State, Iceland, Liechtenstein, Norway or Switzerland posted outside the United Kingdom and Islands in employment—
- (i) on Crown service, or
- (ii) in the British Council as a permanent member of that Council;
- (c) accompanying a person who is posted outside the United Kingdom and Islands—
- (i) in employment on Crown service,
- (ii) in employment in the British Council as a permanent member of that Council,
- or
- (iii) as a member of Her Majesty's Forces.”.

Commencement Information

I3 Art. 8 in force at 30.3.2019, see [art. 1\(3\)](#)

Marginal Citations

M7 [S.I. 2000/1161](#), as amended by [S.I. 1993/1813](#), 2003/2818, 2004/475, 2005/1159, 2010/957, 2013/1749, 2015/434, and 2016/1132.

M8 [2006 c. 52](#).

PART 3

Biometrics

Amendments to the Immigration (Provision of Physical Data) Regulations 2006

9. In regulation 2 of the Immigration (Provision of Physical Data) Regulations 2006 (interpretation)^{M9}, in the definition of “application”, for paragraph (e) substitute—

- “(e) an application for leave to enter or remain in the United Kingdom made under Appendix EU to the immigration rules.”.

Commencement Information

I4 Art. 9 in force at 30.3.2019, see [art. 1\(3\)](#)

Marginal Citations

M9 [S.I. 2006/1743](#); amended by [S.I. 2011/1779](#), 2015/737 and 2018/928.

PART 4

Immigration Health Charge

Amendments to the Immigration (Health Charge) Order 2015

10. In Schedule 2 (exemptions) to the Immigration (Health Charge) Order 2015^{M10}, in paragraph 1, after sub-paragraph (l) insert—

- “(m) for entry clearance under any immigration rules which are identified in the immigration rules as having effect in connection with the granting of entry clearance for the purposes of acquiring leave to enter or remain in the United Kingdom by virtue of Appendix EU to the immigration rules;
- (n) for leave to remain by virtue of Appendix EU to the immigration rules.”.

Commencement Information

I5 Art. 10 in force at 30.3.2019, see [art. 1\(3\)](#)

Marginal Citations

M10 [S.I. 2015/792](#); amended by [S.I. 2016/400](#), 2017/420 and 2018/1389.

Home Office

Caroline Nokes
Minister of State

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with nationals of the European Economic Area and Swiss nationals, together with their family members, following the withdrawal of the United Kingdom from the European Union.

Chapter 1 of Part 2 enables an EEA national or national of Switzerland who meets the conditions set out in article 3 to obtain leave to enter the United Kingdom. These conditions enable an individual who has appropriate documentation and is not excluded under article 4 to obtain leave by going through an eGate, passing through a manned control point, contacting an immigration officer (where for example they arrived by a general aviation or general maritime route) or arriving on a local journey from Ireland. Where the conditions in article 3 are met such a person will automatically be given leave to enter for three months. Where such leave is given, no notice of leave is given to the person. A person given leave under article 3 may be examined by an immigration officer in the usual way to see whether there are grounds for cancelling leave.

Article 7 provides that the Secretary of State may grant or refuse leave to enter to a person outside the United Kingdom who seeks leave to enter the United Kingdom by virtue of Appendix EU to the immigration rules.

Article 8 amends the Immigration (Leave to Enter and Remain) Order 2000 (S.I. 2000/1161) (the “2000 Order”) to provide that where a person granted indefinite leave to enter or remain under Appendix EU to the immigration rules leaves the United Kingdom, their leave does not lapse by a continuous period of absence from the United Kingdom of up to five years (four years in the case of a person granted leave as a Swiss national or their family member). Article 8 amends the 2000 Order to clarify that it is only absences from the United Kingdom, the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man that cause indefinite or limited leave to enter or remain to lapse (in certain circumstances). Article 8 also amends the circumstances under the 2000 Order in which indefinite or limited leave to enter or remain does not lapse where the person is on Crown service overseas or is a member of HM Forces serving overseas, or is accompanying such a person, in particular to include where this leave has been granted under Appendix EU to the immigration rules.

Article 9 amends the Immigration (Provision of Physical Data) Regulations 2006 (S.I. 2006/1743) to allow for the requiring of applicants for leave to enter the United Kingdom under Appendix EU to the immigration rules to provide a record of their fingerprints and a photograph of their face (referred to as “biometric information”).

Article 10 of this Order amends the Immigration (Health Charge) Order 2015 (S.I. 2015/792), which requires a person who applies for entry clearance for a limited period, or for limited leave to remain in the United Kingdom, to pay an immigration health charge. Schedule 2 to the 2015 Order exempts particular categories of application from the requirement to pay the charge. Article 10 of this Order amends Schedule 2 to the 2015 Order to exempt applications made for leave to enter or remain in the United Kingdom, or for entry clearance, by virtue of Appendix EU to the immigration rules.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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