STATUTORY INSTRUMENTS

2020 No. 1209

The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020

PART 3

Saving of the EEA Regulations 2016 etc. during the grace period and whilst applications are finally determined

Applications which have not been finally determined by the application deadline

4.—(1) This regulation has effect if the EEA Regulations 2016 are revoked on IP completion day (with or without savings).

(2) This regulation applies to a person ("the applicant") who—

(a) has made an in-time application (see paragraph (6)), and

(b) immediately before IP completion day—

(i) was lawfully resident in the United Kingdom by virtue of the EEA Regulations 2016, or

(ii) had a right of permanent residence in the United Kingdom under those Regulations (see regulation 15).

(3) The provisions of the EEA Regulations 2016 specified in regulations 5 to 10 continue to have effect (despite the revocation of those Regulations) with the modifications specified in those regulations in relation to the applicant during the relevant period.

(4) The provisions specified in regulation 11 apply in relation to the applicant during the relevant period as if any reference to the EEA Regulations 2016 or any provision of those Regulations are to the Regulations or provision of the Regulations as continued in effect and modified by regulations 5 to 10.

(5) The enactments specified in regulation 12 apply in relation to the applicant during the relevant period with the modifications specified in that regulation.

(6) For the purposes of this regulation—

(a) an in-time application is an application for leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules which—

(i) is valid under residence scheme immigration rules;

(ii) is made on or before the application deadline, and

(iii) has not been withdrawn;

(b) the relevant period begins immediately after the application deadline and ends—

(i) if the applicant is, by virtue of the in-time application, granted leave to enter or remain in the United Kingdom, on the day on which that leave is granted;

(ii) if a decision is taken not to grant any leave to enter or remain in the United Kingdom in response to the applicant's application and the applicant does not appeal against that decision, on the first day on which the applicant is no longer entitled to appeal against that decision (ignoring any possibility of an appeal out of time with permission);

(iii) if a decision is taken not to grant any leave to enter or remain in the United Kingdom in response to the applicant's application and the applicant brings an appeal against that decision, on the day on which that appeal is finally determined, withdrawn or abandoned, or lapses under paragraph 3 of Schedule 1 to the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 [M1];

(c) a person is to be treated as residing in the United Kingdom at any time which would be taken into account for the purposes of calculating periods when the person was continuously resident for the purposes of the EEA Regulations 2016 (see regulation 3);

(d) a person who does not have the right to reside in the United Kingdom permanently is to be treated as having such a right if the person had a right of permanent residence in the United Kingdom under those Regulations (see regulation 15) and who, immediately before IP completion day, has been absent from the United Kingdom for a continuous period of 5 years or less (disregarding any period of absence before the person acquired the right of permanent residence).

(7) For the purposes of paragraph (6)(b)(iii)—

(a) an appeal is not finally determined while (as the case may be)—

(i) an application for permission to appeal under section 11 or 13 of the Tribunals, Courts and Enforcement Act 2007 [M2] could be made or is awaiting determination;

(ii) permission to appeal under either of those sections has been granted and the appeal is awaiting determination;

(iii) an appeal has been remitted under section 12 or 14 of that Act and is awaiting determination;

(iv) any of the following applications could be made—

(aa) an application for leave to appeal under section 7 of the applied 1997 Act;

(bb) an application for a certificate under section 7B of the applied 1997 Act [M3];

(cc) an application for permission to appeal under section 7C of the applied 1997 Act, or

(v) leave to appeal under section 7, or permission to appeal under section 7C, of the applied 1997 Act has been granted and the appeal is awaiting determination;

(b) an appeal is to be treated as abandoned if the appellant is granted leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules;

(c) an appeal is not to be treated as abandoned solely because the appellant leaves the United Kingdom.

(8) For the purposes of paragraph (7), "the applied 1997 Act" means the Special Immigration Appeals Commission Act 1997 [M4] as it applies for the purposes of the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 by virtue of Part 2 of Schedule 1 to those Regulations.

Commencement Information

I1 Reg. 4 in force at 31.12.2020, see **reg. 1(1)**

Marginal Citations

M1 S.I. 2020/61.

M2 2007 c. 15. There are amendments but none are relevant.

M3 Sections 7B to 7D were inserted by section 66 of the Criminal Justice and Courts Act 2015 (c. 2).

M4 1997 c. 68.

Changes to legislation:
There are currently no known outstanding effects for the The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020, Section 4.