

Draft Regulations laid before Parliament under section 5(7) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

NATIONALITY

The British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021

Made - - - -

Coming into force - -

1st July 2021

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5(1), (2)(a) and (3)(b) and 8(5) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020(1).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the British Nationality Act 1981 (Immigration Rules Appendix EU) (Amendment) Regulations 2021 and come into force on 1st July 2021.

(2) These Regulations extend to—

- (a) England and Wales,
- (b) Scotland,
- (c) Northern Ireland,
- (d) the Channel Islands,
- (e) the Isle of Man, and
- (f) the British overseas territories.

Amendment of the British Nationality Act 1981

2.—(1) The British Nationality Act 1981(2) is amended as follows.

(2) In section 1 (acquisition by birth or adoption), in subsections (3), (3A) and (4), after “(1), (1A) or (2)” insert “or section 10A”.

(1) [2020 c. 20](#). For the extent of Part 1 of the British Nationality Act [1981 \(c. 61\)](#), which these Regulations amend, see section 53(4) to (7) of that Act.

(2) [1981 c. 61](#).

(3) After section 10 (registration following renunciation of citizenship of UK and Colonies) insert—

“Acquisition in connection with immigration rules Appendix EU

10A.—(1) This section applies to a person born in the United Kingdom⁽³⁾ on or after 1st July 2021 who is not a British citizen on the relevant date by virtue of any other provision of this Act.

(2) A person to whom this section applies (“C”) is a British citizen as from the relevant date if conditions 1 to 3 are satisfied in the case of either C’s father or mother (“P”).

(3) Condition 1 is that, on or after 1st July 2021, P is granted—

- (a) UK related indefinite leave under paragraph EU2 of Appendix EU to the UK immigration rules⁽⁴⁾;
- (b) Isle of Man related indefinite leave under paragraph EU2 of Appendix EU to the Isle of Man immigration rules⁽⁵⁾,

and the date of grant of such leave is referred to in this section as “the relevant date”.

(4) Condition 2 is that—

- (a) P is granted the leave described in subsection (3)(a) or (b) pursuant to an application made before 1st July 2021, or
- (b) immediately before 1st July 2021, P would have met the eligibility requirements for—
 - (i) UK related indefinite leave within paragraph EU11 or EU12 of Appendix EU to the UK immigration rules, or
 - (ii) Isle of Man related indefinite leave within paragraph EU11 or EU12 of Appendix EU to the Isle of Man immigration rules,
 if an application had been made at that time.

(5) Condition 3 is that P is ordinarily resident in the United Kingdom on the relevant date.

(6) In determining whether subsection (4)(b) applies, it is to be assumed that P was not entitled to any exemption under section 8 of the Immigration Act 1971⁽⁶⁾ immediately before 1st July 2021.

(7) Any subsequent change to the immigration status of P does not affect the status of C as a British citizen.

(8) In this section—

“Isle of Man immigration rules” means the rules laid down under section 3(2) of the Immigration Act 1971⁽⁷⁾ as that section extends to the Isle of Man⁽⁸⁾;

(3) For the meaning of “the United Kingdom”, see section 50(1) of the British Nationality Act 1981.

(4) Appendix EU to the UK immigration rules was laid before Parliament on 20 July 2018 (CM 9675). It was substituted by the statement of changes laid before Parliament on 22nd October 2020 (HC 813) and amended by the statement of changes laid before Parliament on 4th March 2021 (HC 1248).

(5) Appendix EU to the Isle of Man immigration rules was laid before Tynwald on 9th April 2019 (Statutory Document 2019/0143) and substituted by the statement of changes laid before Tynwald on 15th December 2020 (Statutory Document 2020/0497).

(6) 1971 c. 77. Relevant amendments were made to section 8 by section 39(4) and (6) of, and paragraphs 2 and 5 of Schedule 4 to, the British Nationality Act 1981, section 4 of the Immigration Act 1988 (c. 14), section 6 of the Immigration and Asylum Act 1999 (c. 33) and Part 2 of Schedule 1 to the Statute Law (Repeals) Act 1995 (c. 44). Section 8 of the Immigration Act 1971 was extended with modifications to the Isle of Man by Article 6(1) and (2)(a) of S.I. 2008/680.

(7) 1971 c. 77.

(8) Section 3(2) of the Immigration Act 1971 was extended with modifications to the Isle of Man by Article 6(2)(a) of S.I. 2008/680; there are amendments to that Order, but none are relevant.

“Isle of Man related indefinite leave” means indefinite leave as defined in section 33(1) of the Immigration Act 1971 as that section extends to the Isle of Man⁽⁹⁾;

“the relevant date” has the meaning given in subsection (3);

“UK immigration rules” means the rules laid down under section 3(2) of the Immigration Act 1971;

“UK related indefinite leave” means indefinite leave as defined in section 33(1) of the Immigration Act 1971.”.

Date

Name
Parliamentary Under Secretary of State
Home Office

(9) Section 33 of the Immigration Act 1971 was extended with modifications to the Isle of Man by Article 6(2)(c) of [S.I. 2008/680](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 5(1) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), in order to make provision in consequence of or in connection with Part 1 of that Act, which (amongst other things) makes provision to end rights to free movement under retained EU law.

The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (S.I. 2020/1209) ("the 2020 Regulations") specify 30th June 2021 as the deadline by which applications must be made for residence status in accordance with the Withdrawal Agreement between the United Kingdom and the EU, the EEA EFTA separation agreement and the Swiss citizens' rights agreement. Such applications are made in the United Kingdom under Appendix EU to the UK immigration rules. They are made in the Isle of Man under Appendix EU to the Isle of Man immigration rules.

Pursuant to the 2020 Regulations, provisions of the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) continue to apply during the grace period to persons who have not acquired residence status. The grace period is the period beginning immediately after the end of the implementation period (31st December 2020 at 11.00 pm) and ending with the application deadline (30th June 2021). The 2020 Regulations apply with modifications to the Isle of Man.

Regulation 2 of these Regulations amends the British Nationality Act 1981 (c. 61) to provide that children born on or after 1st July 2021 to a parent who subsequently acquires indefinite leave to enter or remain in the United Kingdom or the Isle of Man under Appendix EU to the UK or Isle of Man immigration rules automatically acquire British citizenship from the date of grant of such leave if the parent meets certain other conditions.

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