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STATUTORY INSTRUMENTS

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**2019 No. 1401**

**EXITING THE EUROPEAN UNION**

**The Freedom of Establishment and Free  
Movement of Services (EU Exit) Regulations 2019**

*Made - - - - 28th October 2019*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Freedom of Establishment and Free Movement of Services (EU Exit) Regulations 2019 and come into force on exit day.

**Cessation of freedom of establishment**

- 2.—(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which—
- (a) continue by virtue of section 4(1) of the European Union (Withdrawal) Act 2018; and
  - (b) are derived (directly or indirectly) from—
    - (i) Article 49 of the Treaty on the Functioning of the European Union;
    - (ii) Article 31 of the EEA Agreement;
    - (iii) Article 4 of the Agreement between the European Community and its Member States and the Swiss Confederation on the free movement of persons signed at Luxembourg on 21st June 1999<sup>(2)</sup>;
    - (iv) Article 13 of the Agreement establishing an Association between the European Economic Community and Turkey signed at Ankara on 12th September 1963 and

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(1) 2018 c. 16.

(2) This Agreement was specified as an EU Treaty by [S.I. 2000/3269](#).

Article 41 of the additional Protocol to that Agreement signed at Brussels on 23rd November 1970<sup>(3)</sup>,

cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

(2) But the cessation of the rights, powers, liabilities, obligations, restrictions, remedies and procedures set out at paragraph (1)(b)(iii) and (iv) does not apply to any matter which falls within the interpretation, application or operation of the Immigration Acts.

### **Cessation of free movement of services**

3.—(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

- (a) continue by virtue of section 4(1) of the European Union (Withdrawal) Act 2018; and
- (b) are derived (directly or indirectly) from—

- (i) Articles 56 and 57 of the Treaty on the Functioning of the European Union;
- (ii) Articles 36 and 37 of the EEA Agreement;
- (iii) Article 5 of the Agreement between the European Community and its Member States and the Swiss Confederation on the free movement of persons signed at Luxembourg on 21st June 1999;
- (iv) Article 14 of the Agreement establishing an Association between the European Economic Community and Turkey signed at Ankara on 12th September 1963 and Article 41 of the additional Protocol to that Agreement signed at Brussels on 23rd November 1970,

cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

(2) But the cessation of the rights, powers, liabilities, obligations, restrictions, remedies and procedures set out at paragraph (1)(b)(iii) and (iv) does not apply to any matter which falls within the interpretation, application or operation of the Immigration Acts.

### **Cessation of discrimination on the grounds of nationality**

4. The prohibitions on the grounds of nationality which—

- (a) continue by virtue of section 4(1) of the European Union (Withdrawal) Act 2018; and
- (b) are derived from—

- (i) Article 18 of the Treaty on the Functioning of the European Union;
- (ii) Article 4 of the EEA Agreement;
- (iii) Article 2 of the Agreement between the European Community and its Member States and the Swiss Confederation on the free movement of persons signed at Brussels on 21st June 1999; and
- (iv) Article 9 of the Agreement establishing an Association between the European Economic Community and Turkey signed at Ankara on 12th September 1963 and Article 41 of the additional Protocol to that Agreement signed at Brussels on 23rd November 1970,

so far as they relate to the cessation effected by regulations 2(1)(b) and 3(1)(b), cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

<sup>(3)</sup> This Agreement was concluded, approved and confirmed on behalf of the Community by Council [Decision 64/732/EEC](#) of 23 December 1963, and is a pre-accession treaty falling within paragraph 7 of Part I of Schedule 1 to the European Communities Act 1972 (c. 68).

28th October 2019

*Nadhim Zahawi*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial  
Strategy

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 in order to address deficiencies in retained EU law arising from the withdrawal of the United Kingdom from the European Union (“the EU”). The deficiencies fall within section 8(2)(a), (c) and (e) and 8(3)(a) of that Act.

These Regulations provide that certain provisions on freedom of establishment (regulation 2) and the free movement of services (regulation 3), which continue as directly effective rights in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018, should cease. Those provisions derive from the Treaty on the Functioning of the EU, the Agreement on the European Economic Area, the Agreement between the European Community and its Member States and the Swiss Confederation on the free movement of persons and the Agreement establishing an Association between the European Economic Community and Turkey signed at Ankara and subsequent Protocols (“the Ankara Agreement”). The cessation of the provisions on freedom of establishment and free movement of services in the Swiss Agreement and the Ankara Agreement do not apply in relation to matters which fall within the application or operation of the Immigration Acts.

Regulation 4 provides that the prohibitions on the grounds of nationality in the agreements listed at regulations 2 and 3 also cease to be recognised so far as those prohibitions relate to the cessation of the provisions on freedom of establishment and free movement of services.

An impact assessment has not been published for this instrument as it has no or no significant impact on the private, public and voluntary sectors.