
DRAFT STATUTORY INSTRUMENTS

2006 No.

**The Accession (Immigration and
Worker Authorisation) Regulations 2006**

PART 1

General

“Accession State national subject to worker authorisation”

2.—(1) Subject to the following paragraphs of this regulation, in these Regulations “accession State national subject to worker authorisation” means a national of Bulgaria or Romania.

(2) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation if he has leave to enter or remain in the United Kingdom under the 1971 Act and that leave is not subject to any condition restricting his employment.

(3) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation if he was legally working in the United Kingdom on 31st December 2006 and had been legally working in the United Kingdom without interruption throughout the period of 12 months ending on that date.

(4) A national of Bulgaria or Romania who legally works in the United Kingdom without interruption for a period of 12 months falling partly or wholly after 31st December 2006 shall cease to be an accession State national subject to worker authorisation at the end of that period of 12 months.

(5) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he is also a national of—

- (a) the United Kingdom; or
- (b) an EEA State, other than Bulgaria or Romania.

(6) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he is the spouse or civil partner of a national of the United Kingdom or of a person settled in the United Kingdom.

(7) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he has a permanent right of residence under regulation 15 of the 2006 Regulations.

(8) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he is a family member of an EEA national who has a right to reside in the United Kingdom under the 2006 Regulations, unless that EEA national is—

- (a) an accession State national subject to worker authorisation; or
- (b) a student who is not an accession State national subject to worker authorisation solely by virtue of falling within paragraph (10).

(9) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he is a highly skilled person and holds a registration

certificate that includes a statement that he has unconditional access to the United Kingdom labour market.

(10) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he is in the United Kingdom as a student, does not work for more than 20 hours a week and holds a registration certificate that includes a statement that he is a student who has access to the United Kingdom labour market for 20 hours a week.

(11) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which he is a posted worker.

(12) For the purposes of paragraphs (3) and (4) of this regulation—

- (a) a person working in the United Kingdom during a period falling before 1st January 2007 was working legally in the United Kingdom during that period if—
 - (i) he had leave to enter or remain in the United Kingdom under the 1971 Act for that period, that leave allowed him to work in the United Kingdom, and he was working in accordance with any condition on that leave restricting his employment; or
 - (ii) he was entitled to reside in the United Kingdom for that period under the Immigration (European Economic Area) Regulations 2000(1) or the 2006 Regulations without the requirement for such leave;
- (b) a person working in the United Kingdom on or after 1st January 2007 is legally working during any period in which he—
 - (i) falls within paragraphs (5) to (10); or
 - (ii) holds an accession worker authorisation document and is working in accordance with the conditions set out in that document;
- (c) a person shall be treated as having worked in the United Kingdom without interruption for a period of 12 months if he was legally working in the United Kingdom at the beginning and end of that period and any intervening periods in which he was not legally working in the United Kingdom do not, in total, exceed 30 days.

(13) In this regulation—

- (a) “posted worker” means a worker who is posted to the United Kingdom, within the meaning of Article 1(3) of Directive 96/71/EC concerning the posting of workers(2), by an undertaking established in an EEA State;
- (b) the reference to a person settled in the United Kingdom shall be interpreted in accordance with section 33(2A)(3) of the 1971 Act.

(1) S.I. 2000/2326; amended by S.I. 2001/865, S.I. 2003/549, S.I. 2003/3188, S.I.2005/47 and S.I. 2005/671.

(2) O.J. L 018, 21.1.1997, p.1 (the full title of the Directive is Council Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services).

(3) Section 33(2A) was inserted by paragraph 7(b) of Schedule 4 to the British Nationality Act 1981 (c. 61).