

**2009 No. 2426**

**IMMIGRATION**

**The Accession (Worker Authorisation and Worker Registration)  
(Amendment) Regulations 2009**

<i>Made</i>	- - - -	<i>7th September 2009</i>
<i>Laid before Parliament</i>		<i>9th September 2009</i>
<i>Coming into force</i>	- -	<i>2nd October 2009</i>

The Secretary of State, being a Minister designated (a) for the purpose of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the right of entry into, and residence in, the United Kingdom and access to the labour market of the United Kingdom, in exercise of the powers conferred by that section, makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Accession (Worker Authorisation and Worker Registration) (Amendment) Regulations 2009 and shall come into force on 2<sup>nd</sup> October 2009.

**Amendment of the Accession (Immigration and Worker Authorisation) Regulations 2006**

2.—(1) The Accession (Immigration and Worker Authorisation) Regulations 2006(c) are amended as follows.

(2) In regulation 2 (“Accession State national subject to worker authorisation”) –

(a) after paragraph (5) insert –

“(5A) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which that national is the spouse, civil partner or child under 18 of a person who has leave to enter or remain in the United Kingdom under the 1971 Act that allows that person to work in the United Kingdom.”;

(b) in paragraph (8)(a)(ii), after “sub-paragraph (b)” insert “or a worker mentioned in paragraph (8A)”;

(c) after paragraph (8) insert –

“(8A) A national of Bulgaria or Romania is not an accession State national subject to worker authorisation during any period in which that national is the spouse, civil partner or descendant of an accession State national subject to worker authorisation who has a right to reside under regulation 14(1) of the 2006 Regulations by virtue of being a worker falling within sub-paragraph (b) of regulation 6(1) of those Regulations (“qualified person”) provided that, in the case of a descendant, the descendant is under 21 or dependent on the accession State national subject to worker authorisation.”.

---

(a) S.I. 2000/1813 and S.I. 2004/706.

(b) 1972 c.68.

(c) S.I. 2006/3317; amended by S.I. 2007/475 and S.I. 2007/3012.

(3) For regulation 3 (authorised family member) substitute –

“3. A person is an authorised family member for the purpose of these Regulations if that person is the family member of an accession State national subject to worker authorisation who has a right to reside in the United Kingdom under regulation 14(1) of the 2006 Regulations as a worker, unless –

- (a) the worker is only authorised to work under these Regulations by virtue of holding an accession worker card issued in accordance with regulation 11 pursuant to an application as an authorised family member; or
- (b) the family member is the spouse or civil partner of the worker or a descendant of the worker who is under 21 or dependent on the worker.”.

#### **Amendment of the Accession (Immigration and Worker Registration) Regulations 2004**

3. Regulation 2 of the Accession (Immigration and Worker Registration) Regulations 2004(a) (“Accession State worker requiring registration”) is amended as follows –

(a) after paragraph (5A) insert –

“(5B) A national of a relevant accession State is not an accession State worker requiring registration during any period in which that national is the spouse, civil partner or child under 18 of a person who has leave to enter or remain in the United Kingdom under the 1971 Act that allows that person to work in the United Kingdom.”;

(b) for paragraph (6)(b) substitute –

“(b) a family member of a Swiss or EEA national who has a right to reside in the United Kingdom under the 2006 Regulations, other than the family member of –

- (i) a national of a relevant accession State who only has a right to reside under regulation 13 of those Regulations, where the national would be an accession State worker requiring registration if the national began working in the United Kingdom; or
- (ii) an accession State national subject to worker authorisation who only has a right to reside under regulation 13 of those Regulations.”.

Home Office  
7th September 2009

*Phil Woolas*  
Minister of State

---

(a) S.I. 2004/1219; the relevant amending instruments are S.I. 2006/3317, S.I. 2007/3012 and S.I. 2009/892.

## EXPLANATORY NOTE

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

These Regulations amend the Accession (Immigration and Worker Authorisation) Regulations 2006 and the Accession (Immigration and Worker Registration) Regulations 2004.

The 2006 Accession Regulations made provision in relation to the entitlement of nationals of Bulgaria and Romania to reside and work in the United Kingdom on the accession of those States to the European Union on 1<sup>st</sup> January 2007. In particular, the Regulations restrict access to the United Kingdom labour market by Bulgarian and Romanian nationals. The Accession Treaty for Bulgaria and Romania (signed in Luxembourg on 25<sup>th</sup> April 2005) provides that existing member States can, as a derogation from the usual position under European Community law, regulate access to their labour markets by Bulgarian and Romanian nationals (the “labour market derogation”). The restrictions on access to the United Kingdom labour market in the 2006 Accession Regulations were imposed on the basis of that derogation.

During the first two years following accession the labour market derogation allows a Member State to restrict access to its labour market by the family members of Bulgarian and Romanian workers. From 2009, however, the spouse of a Bulgarian or Romanian worker and the worker’s descendants who are under 21 or are dependent on the worker are to be given access to the Member State’s labour market. Regulation 2(2)(c) of these Regulations amend the 2006 Accession Regulations to provide access to the United Kingdom labour market by such family members. The amendment excludes such family members from the definition of “an accession State national subject to worker authorisation” and thus from the controls established by the 2006 Regulations. Regulations 2(2)(b) and (3) of these Regulations contain consequential amendments to the 2006 Accession Regulations to take account of this change.

The labour market derogation provides that the restrictions imposed on access to the labour market by nationals from Bulgaria and Romania must not be more restrictive than those prevailing on the date of signature of the Accession Treaty (the “standstill clause”). Regulation 2(2)(a) of these Regulations excludes the Bulgarian or Romanian spouse, civil partner or child under 18 of a person who has leave to enter or remain in the United Kingdom under domestic law from the definition of “an accession State national subject to worker authorisation” if the leave allows that person to work in the United Kingdom. This brings the operation of the 2006 Accession Regulations into line with the treatment of such spouses, civil partners and children when the Accession Treaty was signed so as to comply with the standstill clause.

The 2004 Accession Regulations imposed restrictions on access to the United Kingdom labour market by nationals of the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Poland, the Republic of Slovenia and the Slovak Republic (the “relevant 2004 accession States”) following the accession of those States to the European Union on 1<sup>st</sup> May 2004. These restrictions were imposed pursuant to a derogation in the Accession Treaty for those States (signed at Athens on 16<sup>th</sup> April 2003) which is in substance the same as the labour market derogation applying in relation to Bulgarian and Romanian nationals.

Regulation 3 of these Regulations make similar amendments to the 2004 Accession Regulations as are made by regulation 2 to the 2006 Accession Regulations. Regulation 3(a) excludes a national from a relevant 2004 accession State who is the spouse, civil partner or child under 18 of a person who has leave to enter or remain in the United Kingdom from the controls established by the 2004 Accession Regulations if the leave allows that person to work in the United Kingdom. Regulation 3(b) amends the 2004 Accession Regulations so that a person from a relevant 2004 accession State is generally excluded from those controls if he or she is the family member of a national from a relevant 2004 accession State or Bulgaria or Romania. The person is excluded from the controls so long as the national has a right to reside in the United Kingdom under the Immigration (European Economic Area) Regulations 2006 (other than under regulation 13 of those Regulations, which provides for an initial period of 3 months residence).

---

STATUTORY INSTRUMENTS

---

**2009 No. 2426**

**IMMIGRATION**

The Accession (Worker Authorisation and Worker Registration)  
(Amendment) Regulations 2009

£4.00