
STATUTORY INSTRUMENTS

2018 No. 1149

The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018

[^{F1}PART 6

Transitional and saving provision: limited permission to carry on a regulated activity

Textual Amendments

- F1** Pt. 6 inserted (1.3.2019) by [The Financial Services Contracts \(Transitional and Saving Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/405\)](#), regs. 1(2), 2

CHAPTER 1

Temporary limited permission to carry on a regulated activity

Deemed permission under Part 4A of the Financial Services and Markets Act 2000

28.—(1) A person to whom this regulation applies shall be treated as if the person has permission to carry on a regulated activity in the United Kingdom under Part 4A of the 2000 Act.

(2) The regulated activity a person is permitted to carry on by virtue of this regulation is one specified (by reference to regulations 30 to 32) in regulation 33.

(3) Reference in an enactment to a person with permission under Part 4A of the 2000 Act (however expressed) is to be read, unless the contrary intention appears, as including a person treated as having permission to carry on a regulated activity under that Part by virtue of this regulation.

(4) Accordingly, a power of a regulator under the 2000 Act is exercisable in respect of such a person, and a regulated activity the person is permitted to carry on by virtue of this regulation, as it is in respect of a person with permission under Part 4A of that Act, and a regulated activity the person is permitted to carry on by virtue of Part 4A of that Act.

(5) Such a power is exercisable in relation to, in particular—

- (a) the variation or cancellation of a permission to carry on a regulated activity, or
- (b) the imposition of requirements, prohibitions or restrictions on a person who has such a permission.

Modifications etc. (not altering text)

- C1** Reg. 28 applied (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **36(1)(3)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, PART 6 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Application of regulation 28

29.—(1) Regulation 28 applies to a person who—

- (a) is authorised, under the law of the person's home state, to carry on an activity which is regulated by the person's home state regulator, and
- (b) satisfies the conditions in regulation 30, 31 or 32.

(2) If a person satisfies the conditions in regulation 31, a regulator may direct that, nevertheless, regulation 28 does not apply to the person.

(3) Regulation 28 applies to a person for the period determined in accordance with regulation 41.

Conditions to be satisfied for regulation 28 to apply: persons who cease to be authorised on [F²IP completion day]

30.—(1) The conditions are that the person is one—

- (a) who, immediately before [F³IP completion day]—
 - (i) is authorised to carry on a regulated activity in the United Kingdom by virtue of section 31(1)(b) or (c) of the 2000 Act, and
 - (ii) is carrying on such an activity [F⁴or, subject to paragraph (3), providing a payment service] in the United Kingdom through an establishment in the United Kingdom,

[who is not a Gibraltar firm,]

^{F5}(aa)

- (b) who, immediately before [F³IP completion day], is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act,
- (c) who, on [F³IP completion day], is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act, and
- (d) to whom, on [F³IP completion day], regulation 8 does not apply.

(2) In this regulation—

- (a) reference to carrying on a regulated activity at a particular time includes where the performance of a pre-existing contract requires, or may require, a regulated activity to be carried on at another time;
- (b) reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 28.

[F⁶(3) The reference to providing a payment service in paragraph (1)(a)(ii) applies only to a credit institution which was providing the service through an establishment in the United Kingdom immediately before [F³IP completion day] in accordance with the exercise of an EEA passport right under Title 5 of [Directive 2013/36/EU](#) as in force immediately before [F³IP completion day].]

Textual Amendments

- F2** Words in reg. 30 heading substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(r)**
- F3** Words in reg. 30 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(r)**
- F4** Words in reg. 30(1)(a)(ii) inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(2)(a)**

Changes to legislation: The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, PART 6 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F5** Reg. 30(1)(aa) inserted (16.3.2019) by [The Financial Services \(Gibraltar\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/589\)](#), regs. 1(2), **11(5)**
- F6** Reg. 30(3) inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(2)(b)**

Conditions to be satisfied for regulation 28 to apply: persons to whom regulation 8 ceases to apply

31.—(1) The conditions are that the person is one—

- (a) to whom regulation 8 ceases to apply, in accordance with regulation 17,
- (b) who, immediately before that regulation ceases to apply, is carrying on a regulated activity in the United Kingdom, and
- (c) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act.

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 28.

Conditions to be satisfied for regulation 28 to apply: persons to whom regulation 47 ceases to apply

32.—(1) The conditions are that the person is one—

- (a) to whom regulation 47 ceases to apply, in accordance with regulation 55,
- (b) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act, and
- (c) who is the subject of a direction under regulation 55(1)(b).

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 28.

Regulated activities to which regulation 28 applies

33.—(1) A regulated activity a person is permitted to carry on by virtue of regulation 28 is one—

- (a) which is necessary for the performance of a pre-existing contract,
- (b) which is carried on for the purposes of performing such a contract, and
- (c) to which paragraph (2) applies.

(2) This paragraph applies to a regulated activity—

- (a) in the case of a person who satisfies the conditions in regulation 30, which the person is, immediately before [F7IP completion day], authorised to carry on in the United Kingdom by virtue of section 31(1)(b) or (c) of the 2000 Act;
- (b) in the case of a person who satisfies the conditions in regulation 31, which the person is, immediately before the day on which regulation 8 ceases to apply, permitted to carry on in the United Kingdom by virtue of that regulation;
- (c) in the case of a person who satisfies the conditions in regulation 32, in respect of which the person is, immediately before regulation 47 ceases to apply, an exempt person by virtue of that regulation.

(3) For the purposes of paragraph (1), the performance of a pre-existing contract includes the performance of an obligation under the contract which is contingent or conditional.

(4) The person is also permitted to carry on a regulated activity which is necessary—

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- (a) for the purposes of reducing the financial risk of—
 - (i) a party to a pre-existing contract, or
 - (ii) a third-party affected by the performance of a pre-existing contract;
 - (b) in order to transfer the property, rights or liabilities under a pre-existing contract to a person authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act (other than by virtue of these Regulations);
 - (c) in order to comply with a requirement imposed by or under an enactment.
- (5) A person is only permitted to carry on a regulated activity in so far as is necessary for the purposes specified in paragraph (1) or (3).
- (6) This regulation is subject to the power of a regulator to vary or cancel a permission under Part 4A of the 2000 Act.

Textual Amendments

- F7** Words in [reg. 33](#) substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, [6\(2\)\(s\)](#)

CHAPTER 2

Temporary limited variation to carry on additional regulated activity

Deemed variation under Part 4A of the Financial Services and Markets Act 2000

34.—(1) A person to whom this regulation applies shall be treated as if the person's permission to carry on a regulated activity in the United Kingdom under Part 4A of the 2000 Act were varied.

(2) The variation is that the regulated activity the person is permitted to carry on includes one specified (by reference to regulations 36 to 39) in regulation 40.

(3) Reference in an enactment to a person's permission under Part 4A of the 2000 Act (however expressed) is to be read, unless the contrary intention appears, as including a regulated activity which is included in the person's permission by virtue of this regulation.

(4) Accordingly, a power of a regulator under the 2000 Act is exercisable in respect of such a person, and a regulated activity the person is permitted to carry on by virtue of this regulation, as it is in respect of the person, and a regulated activity the person is, immediately before [^{F8}IP completion day], permitted to carry on by virtue of Part 4A of that Act.

- (5) Such a power is exercisable in relation to, in particular—
 - (a) the variation or cancellation of a permission to carry on a regulated activity, or
 - (b) the imposition of requirements, prohibitions or restrictions on a person who has such a permission.

Textual Amendments

- F8** Words in reg. 34 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, [6\(2\)\(t\)](#)

Modifications etc. (not altering text)

- C2** Reg. 34 applied (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [36\(1\)\(3\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, PART 6 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Application of regulation 34

35.—(1) Regulation 34 applies to a person who—

- (a) is authorised, under the law of the person's home state, to carry on an activity which is regulated by the person's home state regulator, ^{F9}...
- (b) satisfies the conditions in regulation 36, 37, 38 or 39, ^{F10}and
- (c) is not a Gibraltar firm.]

(2) If a person satisfies the conditions in regulation 37, 38 or 39, a regulator may direct that, nevertheless, regulation 34 does not apply to the person.

(3) Regulation 34 applies to a person for the period determined in accordance with regulation 41.

Textual Amendments

F9 Word in [reg. 35\(1\)\(a\)](#) omitted (16.3.2019) by virtue of [The Financial Services \(Gibraltar\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/589\)](#), regs. 1(2), [11\(6\)\(a\)](#)

F10 [Reg. 35\(1\)\(c\)](#) and preceding word inserted (16.3.2019) by [The Financial Services \(Gibraltar\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/589\)](#), regs. 1(2), [11\(6\)\(b\)](#)

Conditions to be satisfied for regulation 34 to apply: persons who cease to be authorised on ^{F11}IP completion day]

36.—(1) The conditions are that the person is one—

- (a) who, immediately before ^{F12}IP completion day]—
 - (i) is authorised to carry on a regulated activity in the United Kingdom by virtue of section 31(1)(b) or (c) of the 2000 Act, and
 - (ii) is carrying on such an activity ^{F13}or, subject to paragraph (3), providing a payment service] in the United Kingdom, whether through an establishment in the United Kingdom or otherwise,
- (b) who, immediately before ^{F12}IP completion day], is also authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act,
- (c) to whom, on ^{F12}IP completion day], regulation 11 does not apply, and
- (d) who, on ^{F12}IP completion day], is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act, in respect of the regulated activities which, immediately before that day, the person is carrying on by virtue of section 31(1)(b) or (c) of the 2000 Act.

(2) In this regulation—

- (a) reference to carrying on a regulated activity at a particular time includes where the performance of a pre-existing contract requires, or may require, a regulated activity to be carried on at another time;
- (b) reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 34.

^{F14}(3) The reference to providing a payment service in paragraph (1)(a)(ii) applies only to a credit institution which was providing the service in the United Kingdom immediately before ^{F12}IP completion day] in accordance with the exercise of an EEA passport right under Title 5 of [Directive 2013/36/EU](#) as in force immediately before ^{F12}IP completion day].]

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Textual Amendments

- F11** Words in reg. 36 heading substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(u)**
- F12** Words in [reg. 36](#) substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(u)**
- F13** Words in reg. 36(1)(a)(ii) inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(3)(a)**
- F14** Reg. 36(3) inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(3)(b)**

Conditions to be satisfied for regulation 34 to apply: persons to whom regulation 8 ceases to apply

37.—(1) The conditions are that the person is one—

- (a) to whom regulation 8 ceases to apply, in accordance with regulation 17,
- (b) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act that the person is, immediately before that regulation ceases to apply, permitted to carry on by virtue of that regulation,
- (c) who, immediately before that regulation ceases to apply, is carrying on a regulated activity in the United Kingdom which is not, immediately after that regulation ceases to apply, a regulated activity the person is authorised to carry on by virtue of section 31(1)(a) of the 2000 Act, and
- (d) who, on that regulation ceasing to apply, is authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act.

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 34.

Conditions to be satisfied for regulation 34 to apply: persons to whom regulation 11 ceases to apply

38.—(1) The conditions are that the person is one—

- (a) to whom regulation 11 ceases to apply, in accordance with regulation 17,
- (b) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act that the person is, immediately before that regulation ceases to apply, permitted to carry on by virtue of that regulation, and
- (c) who, immediately before that regulation ceases to apply, is carrying on a regulated activity in the United Kingdom which is not, on that regulation ceasing to apply, a regulated activity the person is authorised to carry on by virtue of section 31(1)(a) of the 2000 Act.

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 34.

Conditions to be satisfied for regulation 34 to apply: persons to whom regulation 28 ceases to apply

39.—(1) The conditions are that the person is one—

- (a) to whom regulation 28 ceases to apply, in accordance with regulation 41(3),

- (b) who, immediately before that regulation ceases to apply, is carrying on a regulated activity in the United Kingdom which is not, immediately after that regulation ceases to apply, a regulated activity the person is authorised to carry on by virtue of section 31(1)(a) of the 2000 Act, and
- (c) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act that the person is, immediately before that regulation ceases to apply, permitted to carry on by virtue of that regulation.

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 34.

Regulated activities to which regulation 34 applies

40.—(1) A regulated activity included in those which a person is permitted to carry on by virtue of regulation 34 is one—

- (a) which is necessary for the performance of a pre-existing contract,
- (b) which is carried on for the purposes of performing such a contract,
- (b) which is not a regulated activity the person is authorised to carry on by virtue of section 31(1)(a) of the 2000 Act, and
- (c) to which paragraph (2) applies.

(2) This paragraph applies to a regulated activity—

- (a) in the case of a person who satisfies the conditions in regulation 36, which the person is, immediately before [^{F15}IP completion day], authorised to carry on in the United Kingdom by virtue of section 31(1)(b) or (c) of the 2000 Act;
- (b) in the case of a person who satisfies the conditions in regulation 37, which the person is, immediately before the day on which regulation 8 ceases to apply, permitted to carry on in the United Kingdom by virtue of that regulation;
- (c) in the case of a person who satisfies the conditions in regulation 38, which the person is, immediately before the day on which regulation 11 ceases to apply, permitted to carry on in the United Kingdom by virtue of that regulation;
- (d) in the case of a person who satisfies the conditions in regulation 39, which the person is, immediately before the day on which regulation 28 ceases to apply, permitted to carry on in the United Kingdom by virtue of that regulation.

(3) For the purposes of paragraph (1), the performance of a pre-existing contract includes the performance of an obligation under the contract which is contingent or conditional.

(4) The person is also permitted to carry on a regulated activity which is necessary—

- (a) for the purposes of reducing the financial risk of—
 - (i) a party to a pre-existing contract, or
 - (ii) a third-party affected by the performance of a pre-existing contract;
- (b) in order to transfer the property, rights or liabilities under a pre-existing contract to a person authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act (other than by virtue of these Regulations);
- (c) in order to comply with a requirement imposed by or under an enactment.

(5) A person is only permitted to carry on a regulated activity in so far as is necessary for the purposes specified in paragraph (1) or (3).

(6) This regulation is subject to the power of a regulator to vary or cancel a permission under Part 4A of the 2000 Act.

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Textual Amendments

- F15** Words in [reg. 40](#) substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, [6\(2\)\(v\)](#)

CHAPTER 3

Temporary limited permission and variation: duration

Period during which regulation 28 or 34 is to apply

41.—(1) For the purposes of regulations 29(3) and 35(3), the period is one that begins with the relevant day and ends—

- (a) in so far as a regulated activity a person is permitted to carry on by virtue of regulation 28 or 34 is carried on for—
 - (i) the purpose of performing a contract of insurance, after fifteen years, or
 - (ii) any other purpose, after five years,
 beginning with the earlier of the day on which regulation 28, 34 or 47, as applicable, first applies to the person, or
- (b) if earlier—
 - (i) for the purposes of regulation 29(3), with a day determined in accordance with paragraph (3) or (7);
 - (ii) for the purposes of regulation 35(3), with a day determined in accordance with paragraph (5), (7) or (9);
 - (iii) for the purposes of regulations 29(3) and 35(3), with the day before the day on which the person ceases to be authorised, under the law of the person's home state, to carry on an activity which is regulated by the person's home state regulator.

(2) Paragraph (3) applies where a regulator makes a determination under section 55V to grant an application by a person to whom regulation 28 applies, for a permission or cancellation of a permission under Part 4A of the 2000 Act.

(3) Where this paragraph applies, the day referred to in paragraph (1)(b)(i) is the day before the date stated in the written notice (issued in accordance with section 55V(5) of the 2000 Act) as that from which permission or cancellation has effect.

(4) Paragraph (5) applies where a regulator makes a determination under section 55V to grant an application by a person to whom regulation 34 applies—

- (a) for a variation of a permission under Part 4A of the 2000 Act and, as a result of the variation, there are no longer any regulated activities for which the person is treated as having permission by virtue of regulation 34, or
- (b) for a cancellation of such a permission.

(5) Where this paragraph applies, the day referred to in paragraph (1)(b)(ii) is the day before the date stated in the written notice (issued in accordance with section 55V(5) of the 2000 Act) as that from which permission, variation or cancellation has effect.

(6) Paragraph (7) applies where a regulator exercises its power to cancel the Part 4A permission of a person to whom regulation 28 or 34 applies under section 55J or 55JA of the 2000 Act.

(7) Where this paragraph applies, the day referred to in paragraph (1)(b) is the day on which the person is given a decision notice (issued in accordance with section 55Z(3) of the 2000 Act).

(8) Paragraph (9) applies where—

(a) a regulator exercises its power to vary the Part 4A permission of a person to whom regulation 34 applies under section 55J of the 2000 Act, and

(b) as a result of the variation, there are no longer any regulated activities for which the person is treated as having permission by virtue of regulation 34.

(9) Where this paragraph applies, the day referred to in paragraph (1)(b)(ii) is the day before the day stated in the written notice (issued in accordance with section 55Y(4) of the 2000 Act) as that on which a variation takes effect.

(10) For the purposes of this regulation, a reference to an application for permission includes a reference to an application for a variation that is treated as an application for permission by virtue of section 55H(8) or 55I(9) of the 2000 Act.

CHAPTER 4

Modifications of the Financial Services and Markets Act 2000

Modifications of Part 2 of the Financial Services and Markets Act 2000

42. In respect of a person to whom regulation 28 or 34 applies, section 21 of the 2000 Act (restrictions on financial promotion) has effect as if—

(a) in subsection (2), paragraph (b), were omitted;

(b) after that subsection there were inserted—

“(2A) Subsection (2)(a) only applies to a person in so far as the communication is necessary for the performance of a pre-existing contract (within the meaning of regulation 46 of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018).”

Modifications of Part 4A of the Financial Services and Markets Act 2000

43.—(1) In respect of a person to whom regulation 28 or 34 applies, Part 4A of the 2000 Act (permission to carry on regulated activities) is modified as follows.

(2) Section 55A (application for permission) has effect as if—

(a) in subsection (2), after “subsection (2B)” there were inserted “and to a direction of the PRA or the FCA given with the consent of the other”;

(b) in subsection (3), after “is in force” there were inserted “, other than a person who is treated as having such a permission by virtue of regulation 28 or 34 of the 2018 Regulations,”.

(3) Section 55H (variation by FCA at request of authorised person) has effect as if, after subsection (7), there were inserted—

“(8) Where a person makes an application to vary the permission that the person is treated as having by virtue of regulation 28 or 34 of the 2018 Regulations, the FCA may, if it considers it appropriate to do so, treat the application as an application for permission under section 55A.”

(4) Section 55I (variation by PRA at request of authorised person) has effect as if, after subsection (8), there were inserted—

“(9) Where a person makes an application to vary the permission that the person is treated as having by virtue of regulation 28 or 34 of the 2018 Regulations, the PRA may, if it considers it appropriate to do so, treat the application as an application for permission under section 55A.”

(5) Part 4A has effect as if, after section 55J (variation or cancellation on initiative of regulator), there were inserted—

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“Additional power of cancellation: persons to whom regulation 28 or 34 of the 2018 Regulations applies

55JA.—(1) A regulator may, taking into account the matters specified in subsection (2), cancel the permission of a person—

- (a) to whom regulation 28 or 34 of the 2018 Regulations applies, and
- (b) who is carrying a regulated activity in the United Kingdom other than through an establishment in the United Kingdom,

and direct that regulation 47 of the 2018 Regulations is to apply to the person.

(2) The matters are—

- (a) the person’s conduct,
- (b) the practicality of supervision by a regulator,
- (c) the size of the person’s undertaking, and
- (d) the nature or extent of the regulated activity the person carries on.”

(6) Section 55Z (cancellation of Part 4A permission: procedure) has effect as if, after subsection (2), there were inserted—

“(3) If a regulator gives a decision notice under subsection (2), the notice must state the day on which regulation 28 or 34 of the 2018 Regulations ceases to apply.

(4) For the purposes of subsection (3), the day stated must be a day that falls before the end of—

- (a) in so far as a regulated activity a person is permitted to carry on by virtue of regulation 28 or 34 of the 2018 Regulations is carried on for the purpose of performing a contract of insurance, fifteen years,
- (b) in so far as a regulated activity a person is permitted to carry on by virtue of regulation 28 or 34 of those Regulations is carried on for any other purpose, five years,

beginning with the earlier of the day on which regulation 28, 34 or 47 of those Regulations, as applicable, first applies to the person.”

(7) Section 55Z4 (interpretation of Part 4A) has effect as if, at the appropriate place, there were inserted—

““the 2018 Regulations” means the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018;”.

CHAPTER 5

Savings

Requirements imposed by a domestic regulator

44.—(1) Paragraphs (2) to (4) apply in respect of a person to whom regulation 28 or 34 applies by virtue of the conditions in regulation 30 or 36.

(2) A requirement imposed by a regulator in accordance with section 196 of the 2000 Act (power of intervention) and which has effect immediately before the relevant day continues to have effect on and after the relevant day as if it were imposed by the regulator under—

- (a) section 55L (imposition of requirements by FCA) of that Act, or
- (b) section 55M (imposition of requirements by PRA) of that Act.

(3) If it appears that, immediately before the relevant day, the circumstances set out in section 194(1)(a) or (b) of the 2000 Act are satisfied in respect of the person—

Changes to legislation: The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, PART 6 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the FCA may exercise its power under section 55L(3) of that Act, and
- (b) the PRA may exercise its power under section 55M(3) of that Act.
- (4) Paragraph (2) is without prejudice to section 55L(2) or 55M(2) of the 2000 Act.
- (5) Paragraph (6) applies in respect of a person to whom regulation 28 or 34 applies by virtue of the conditions in regulation 31, 37, 38 or 39.
- (6) A requirement imposed, or which has effect as if it were imposed, by a regulator under—
 - (a) section 55L (imposition of requirements by FCA) of that Act, or
 - (b) section 55M (imposition of requirements by PRA) of that Act,and which has effect immediately before the relevant day, continues to have effect on and after the relevant day as if it were imposed by the regulator under that section.

Requirements imposed by a home state regulator

- 45.**—(1) This regulation applies in respect of a person to whom regulation 28 or 34 applies by virtue of the conditions in regulation 30 or 36.
- (2) A requirement imposed by a home state regulator and which has effect immediately before [F16]IP completion day] continues to have effect on and after that day as if it were imposed by a regulator under—
- (a) section 55L (imposition of requirements by FCA) of the 2000 Act, or
 - (b) section 55M (imposition of requirements by PRA) of that Act.
- (3) The requirement only has effect in so far as it could have been imposed by a regulator under those sections.

Textual Amendments

- F16** Words in [reg. 45](#) substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(w)**

CHAPTER 6

Interpretation of Part 6

Interpretation

- 46.** For the purpose of this Part—
- “contract of insurance” has the same meaning as in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- “establishment” means a branch;
- “home state regulator” has the meaning given by regulation 21;
- [F17]“payment service” has the same meaning as in regulation 2 of the Payment Services Regulations 2017;]
- “pre-existing contract” means a contract entered into before—
- (a) in the case of a person who satisfies the conditions in regulation 32 or 39, the earlier of—
 - (i) the day on which regulation 47 first applies to the person, or
 - (ii) where applicable, the day on which regulation 28 or 34 first applies to the person;
 - (b) in any other case, the relevant day;

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- “regulated activity” has the same meaning as in section 22 of the 2000 Act;
- “regulator” means the Financial Conduct Authority or the Prudential Regulation Authority;
- “relevant day” means—
- (a) in the case of a person who satisfies the conditions in regulation 30 or 36, [^{F18}IP completion day];
 - (b) in the case of a person who satisfies the conditions in regulation 31 or 37, the day on which regulation 8 ceases to apply;
 - (c) in the case of a person who satisfies the conditions in regulation 32, the earlier of—
 - (i) the day on which regulation 47 first applies to the person, or
 - (ii) where applicable, the day on which regulation 28 or 34 first applies to the person;
 - (d) in the case of a person who satisfies the conditions in regulation 38, the day on which regulation 11 ceases to apply;
 - (e) in the case of a person to whom regulation 39 applies, the earlier of—
 - (i) the day on which regulation 28 or 34 first applies to the person, or
 - (ii) where applicable, the day on which regulation 47 first applies to the person.]

Textual Amendments

- F17** Words in reg. 46 inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(4)**
- F18** Words in [reg. 46](#) substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(x)**

Changes to legislation:

The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, PART 6 is up to date with all changes known to be in force on or before 03 April 2024.

There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)