
EXPLANATORY NOTE

(This note is not part of the Regulations)

The European Union (Withdrawal Agreement) Act 2020 (c. 1) (“the Act”) implements the Withdrawal Agreement between the United Kingdom and the EU, the EEA EFTA separation agreement and the Swiss citizens' rights agreement (“the Agreements”).

Regulation 2 specifies the end of 30th June 2021 as the deadline by which applications for residence status in accordance with the Agreements must be made. Such applications are made under residence scheme immigration rules (see section 17 of the Act).

The Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) (“the EEA Regulations 2016”) currently implement, in the United Kingdom, European Union law that relates to free movement of people.

Regulation 3 provides that certain provisions of the EEA Regulations 2016 will continue to apply during the grace period to individuals who do not have leave to enter or remain in the United Kingdom under residence scheme immigration rules and who —

- (a) resided lawfully in the United Kingdom by virtue of those regulations immediately before IP completion day (see section 39 of the Act),
- (b) had a right of permanent residence in the United Kingdom by virtue of those regulations at any point in the 5 years preceding that date, or
- (c) are family members of such persons.

The grace period is the period beginning immediately after IP completion day and ending with the application deadline (30th June 2021).

Regulation 4 relates to individuals who have made applications for residence status on or before the application deadline but whose application has not been finally determined by that date.

Regulation 4 provides that certain provisions of the EEA Regulations 2016 continue to apply to such individuals until their application has been finally determined. “Finally determined” includes an application being successful or exhausting any rights of appeal that the individual may have. Regulations 5 to 10 specify the provisions of the EEA Regulations 2016 that continue to apply, and any relevant modifications. The modifications ensure that the EEA Regulations 2016 continue to operate appropriately after IP completion day and reflect a number of judgments as to how those Regulations should be interpreted and applied.

Regulation 11 provides that the EEA Regulations 2016 continue to apply, with the modifications specified in regulations 5 to 10, for certain purposes connected to the provision of benefits and public services. This provision applies to those to whom regulation 3 or 4 applies.

Regulation 12 specifies provisions of other legislation that continue to apply for the purposes of regulations 3 and 4, where appropriate with modifications. This includes section 7 of the Immigration Act 1988 (c. 14) which specifies that individuals with a right to enter or remain in the United Kingdom by virtue of legislation such as the EEA Regulations 2016 do not require leave to enter or remain in the United Kingdom under the Immigration Act 1971 (c. 77). The continued application of this provision supports the ability of individuals to whom regulation 3 or 4 applies to continue to reside lawfully in the United Kingdom.

Regulation 13 provides that where a question arises as to whether the EEA Regulations 2016 continue to apply to a person, it is for that person to show that they do.

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

Changes to legislation:

There are currently no known outstanding effects for the The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.