
STATUTORY INSTRUMENTS

2020 No. 1309

The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020

PART 2

IMMIGRATION

Chapter 1

Amendment and saving of primary legislation

Amendment and saving of the Immigration Act 1971

- 5.—(1) The Immigration Act 1971 is amended in accordance with paragraphs (2) to (6).
- (2) In section 9 (further provisions as to common travel area) (1), in subsection (4)(a) —
- (a) omit “written”;
 - (b) omit “as being in the interests of national security”.
- (3) In section 25 (assisting unlawful immigration to member State)(2)—
- (a) in subsection (1), in both places it occurs, for “a citizen of the European Union” substitute “a national of the United Kingdom”;
 - (b) in subsection (7), omit paragraph (b) (and the “and” before it).
- (4) Section 25B (assisting entry to United Kingdom in breach of deportation or exclusion order)(3) is omitted.
- (5) In Schedule 4 (integration with United Kingdom law of immigration law of Islands), in paragraph 3 (deportation)(4) —
- (a) in sub-paragraph (2)—
 - (i) after paragraph (a) insert—

“(aa) an Irish citizen;”;
 - (ii) omit paragraphs (b) and (c) (and the “or” after paragraph (c));
 - (iii) at the appropriate place, insert—

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- (1) Section 9(4) was amended by paragraph 2 of, Schedule 4 to, the British Nationality Act 1981 (c. 61).
- (2) Section 25 was amended by S.I. 2019/745. The amendments made by S.I. 2019/745 are not yet in force and in so far as they relate to section 25(1) are revoked by regulation 48 of these Regulations before they come into force.
- (3) Section 25B was substituted by section 143 of the Nationality, Immigration and Asylum Act 2002 (c. 41). Subsection (2) was substituted by paragraph 4(b) of, Schedule 14 to, the Immigration Act 2016 (c. 19). Subsection (3)(c) was amended by paragraph 4(c)(ii) of, Schedule 14 to, the Immigration Act 2016. There have been other amendments to this section which are not relevant.
- (4) Paragraph 3 of Schedule 4 was substituted by paragraphs 43 and 70 of, Schedule 14 to, the Immigration and Asylum Act 1999 (c. 33).

- “(ca) a relevant person (see paragraph 3A); or”;
 - (iv) in paragraph (d), for “such a citizen nor an EEA national” substitute “a British citizen nor an Irish citizen”;
 - (b) in sub-paragraph (4), for “(b), (c)” substitute “(aa), (ca)”.
- (6) In that Schedule, after paragraph 3, insert —

“3A Relevant person for purposes of paragraph 3

- (1) For the purposes of paragraph 3, a person is a “relevant person”—
 - (a) if the person is in the United Kingdom (whether or not they have entered within the meaning of section 11(1)) having arrived with entry clearance granted by virtue of relevant entry clearance immigration rules;
 - (b) if the person has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules;
 - (c) if the person may be granted leave to enter or remain in the United Kingdom as a person who has a right to enter the United Kingdom by virtue of —
 - (i) Article 32(1)(b) of the EU withdrawal agreement;
 - (ii) Article 31(1)(b) of the EEA EFTA separation agreement, or
 - (iii) Article 26(a)(1)(b) of the Swiss citizens’ rights agreement,whether or not the person has been granted such leave, or
 - (d) if the person may enter the United Kingdom by virtue of regulations made under section 8 of the European Union (Withdrawal Agreement) Act 2020 (frontier workers), whether or not the person has entered by virtue of those regulations.
- (2) In this paragraph—
 - “EEA EFTA separation agreement” and “Swiss citizens’ rights agreement” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);
 - “relevant entry clearance immigration rules” and “residence scheme immigration rules” have the meanings given by section 17 of the European Union (Withdrawal Agreement) Act 2020.”.
- (7) Notwithstanding its repeal by paragraph (4), section 25B of the Immigration Act 1971 continues to apply where an order is in force excluding an individual from the United Kingdom and the order—
 - (a) was made before commencement day by virtue of the Immigration (European Economic Area) Regulations 2016 and continues in force under paragraph 2 of Schedule 3 to these Regulations, or
 - (b) is made on or after commencement day by virtue of those 2016 Regulations as they continue to have effect by virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.