

SCHEDULES

SCHEDULE 3

Regulation 82

Saving provision in connection with the Immigration (European Economic Area) Regulations 2016

1. In this Schedule “EEA Regulations 2016” means the Immigration (European Economic Area) Regulations 2016(1) and, unless provided otherwise, refers to those Regulations as they had effect immediately before they were revoked.

Deportation and exclusion orders

2.—(1) Any deportation order made or treated as having been made by virtue of the EEA Regulations 2016(2) continues to apply for the period specified in the order or until revoked.

(2) Any deportation order made by virtue of the EEA Regulations 2016 as they are continued in effect by the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020(3) continues to apply for the period specified in the order or until revoked.

(3) Any exclusion order made or treated as having been made by virtue of the EEA Regulations 2016(4) continues to apply for the period specified in the order or until revoked.

(4) Any exclusion order made by virtue of the EEA Regulations 2016 as they are continued in effect by the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 continues to apply for the period specified in the order or until revoked.

(5) Regulation 34(3) to (6) of the EEA Regulations 2016 (revocation of deportation and exclusion orders) continue to apply—

(a) in respect of any deportation order or exclusion order within sub-paragraph (1) or (3) with the modification that in paragraph (3), after “deportation or exclusion order” there were inserted “made on the grounds of public policy, public security or public health in accordance with regulation 27”;

(b) in respect of any deportation order or exclusion order within sub-paragraph (2) or (4) with the modifications that—

(i) in paragraph (3), after “deportation or exclusion order” there were inserted “made on the grounds of public policy, public security or public health in accordance with regulation 27”;

(ii) after paragraph (6) there were inserted—

“(7) An application for revocation of a deportation order made on conducive grounds in accordance with regulation 27A is to be considered in accordance with

(1) [S.I. 2016/1052](#) amended by S.I.s [2017/1](#), [2017/1242](#), [2018/201](#), [2019/468](#) and [2019/745](#). The amendments made by [S.I. 2019/745](#) are not yet in force and are revoked by regulation 48 of these Regulations before they come into force. [S.I. 2016/1052](#) is revoked by section 1 of, and paragraph 2(2) of Schedule 1 to, the Act.

(2) Deportation orders made under the Immigration (European Economic Area) Regulations 2006 [S.I. 2006/1003](#) are treated as being made under the EEA Regulations by virtue of paragraph 5(2) of Schedule 6 to the EEA Regulations.

(3) [S.I. 2020/1209](#).

(4) Exclusion orders made under the Immigration (European Economic Area) Regulations 2006 [S.I. 2006/1003](#) are treated as being made under the EEA Regulations by virtue of paragraph 5(4) of Schedule 6 to the EEA Regulations.

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the immigration rules that apply in relation to an application for revocation of a deportation order made by virtue of section 3 of the Immigration Act 1971.”.

(6) This paragraph does not apply to the extent that the provisions specified in paragraph (5) continue to apply to a deportation or exclusion order by virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

Pending applications for documentation under the EEA Regulations 2016

3.—(1) Regulation 12 of the EEA Regulations 2016 (issue of EEA family permit)⁽⁵⁾, continues to apply for the purposes of considering and, where appropriate, granting an application for a family permit which was validly made in accordance with the EEA Regulations 2016 before commencement day.

(2) Regulation 12 of the EEA Regulations 2016 also continues to apply for the purposes of considering and, where appropriate, granting an application for a family permit which was validly made after commencement day in accordance with the EEA Regulations 2016 as they are continued in effect by the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

(3) Regulation 17 of the EEA Regulations 2016 (issue of registration certificate)⁽⁶⁾, continues to apply for the purposes of considering and, where appropriate, granting an application for a registration certificate which was validly made in accordance with the EEA Regulations 2016 before commencement day.

(4) Regulation 18 of the EEA Regulations 2016 (issue of residence card), continues to apply for the purposes of considering and, where appropriate, granting an application for a residence card which was validly made in accordance with the EEA Regulations 2016 before commencement day.

(5) Regulation 19 of the EEA Regulations 2016 (issue of a document certifying permanent residence and a permanent residence card), continues to apply for the purposes of considering and, where appropriate, granting an application for a document certifying permanent residence or a permanent residence card, which was validly made in accordance with the EEA Regulations 2016 before commencement day.

(6) Regulation 20 of the EEA Regulations 2016 (issue of a derivative residence card), continues to apply for the purposes of considering and, where appropriate, granting an application for a derivative residence card which was validly made in accordance with the EEA Regulations 2016 before commencement day.

Application of EEA Regulations 2016 to pending applications

4.—(1) Subject to sub-paragraph (2) the provisions of the EEA Regulations 2016 specified in paragraph 6 continue to apply (despite the revocation of those Regulations) with the modifications specified for the purposes of determining whether an application referred to in paragraph 3 should be granted.

(2) The provisions specified in paragraph 6 do not apply to the extent that the provisions of the EEA Regulations 2016 specified in that paragraph continue to apply to an application within paragraph 3(2) by virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

(5) Relevant amendments are made by [S.I. 2018/801](#).

(6) Relevant amendments are made by [S.I. 2017/1](#).

Existing appeal rights and appeals

5.—(1) Subject to sub-paragraph (4), the provisions of the EEA Regulations 2016 specified in paragraph 6 continue to apply—

- (a) to any appeal which has been brought under the Immigration (European Economic Area) Regulations 2006 and has not been finally determined before commencement day,
- (b) to any appeal which has been brought under the EEA Regulations 2016 and has not been finally determined before commencement day,
- (c) in respect of an EEA decision, within the meaning of the EEA Regulations 2016, taken before commencement day, or
- (d) in respect of an EEA decision, within the meaning of the EEA Regulations 2016 as they continue in effect by virtue of these Regulations or the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020, which is taken on or after commencement day.

(2) For the purposes of paragraph (1)—

- (a) an appeal is not to be treated as finally determined while a further appeal may be brought and, if such a further appeal is brought, the original appeal is not to be treated as finally determined until the further appeal is determined, withdrawn or abandoned; and
- (b) an appeal is not to be treated as abandoned solely because the appellant leaves the United Kingdom.

(3) The revocation of the EEA Regulations 2016 does not affect the application of the Immigration (European Economic Area) Regulations 2006 to an appeal that falls within paragraph 3(1) of Schedule 4 to the EEA Regulations 2016.

(4) The provisions specified in paragraph 6 do not apply to the extent that the provisions of the EEA Regulations 2016 specified in paragraph 6 continue to apply to an appeal or EEA decision by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

Specified provisions of the EEA Regulations 2016

6.—(1) The specified provisions of the EEA Regulations 2016 are—

(a) regulation 2 (general interpretation) with the following modifications—

(i) as if all instances of the words “or any other right conferred by the EU Treaties”—

(aa) in so far as they relate to things done on or after exit day but before commencement day, were a reference to a right conferred by the EU Treaties so far as they were applicable to and in the United Kingdom by virtue of Part 4 of the EU withdrawal agreement;

(bb) in so far as they relate to things done on or after commencement day, were omitted;

(ii) as if all instances of the words “or the EU Treaties”—

(aa) in so far as they relate to things done on or after exit day but before commencement day, were a reference to the EU Treaties so far as they were applicable to and in the United Kingdom by virtue of Part 4 of the EU withdrawal agreement;

(bb) in so far as they relate to things done on or after commencement day, were omitted;

(iii) as if, at the end of the definition of “deportation order”, there were inserted “or under section 5(1) of the Immigration Act 1971”;

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- (iv) as if, in the definition of “EEA State”, the words “, other than the United Kingdom” were omitted; and
- (v) as if, at the end of the definition of “exclusion order”, there were inserted “or directions issued by the Secretary of State for a person not to be given entry to the United Kingdom on the grounds that the person’s exclusion is conducive to the public good”;
- (b) regulation 3 (continuity of residence) with the modification that, at the end of paragraph (3) (c), there were inserted “or the Immigration Acts”;
- (c) regulation 4 (“worker”, “self-employed person”, “self-sufficient person” and “student”) with the modification that, in paragraph (1)(b), for “in accordance with” there were substituted “within the meaning of”;
- (d) regulation 5 (“worker or self-employed person who has ceased activity”);
- (e) regulation 6 (“qualified person”) with the following modifications—
 - (i) in paragraph (4C), “and having a genuine chance of being engaged” were omitted;
 - (ii) in paragraph (6), after “employment and” there were inserted “, when determining whether the person is a jobseeker.”;
 - (iii) in paragraph (7), after “continuing to seek employment and” there were inserted “, where that person is a jobseeker”;
- (f) regulation 7 (“family member”);
- (g) regulation 8 (“extended family member”);
- (h) regulation 9 (family members and extended family members of British citizens) with the following modifications—
 - (i) in paragraph (1), at the end there were inserted “and BC is to be treated as satisfying any requirement to be a qualified person”;
 - (ii) sub-paragraph (a) of paragraph (3) were omitted;
 - (iii) paragraph (7) were omitted;
- (i) regulation 9A (dual national: national of an EEA State who acquires British citizenship);
- (j) regulation 10 (“family member who has retained the right of residence”) with the following modifications—
 - (i) in paragraph (2)(b), in so far as it applies to residence in the United Kingdom after commencement day, for “in accordance with these Regulations” there were substituted “lawfully”;
 - (ii) in paragraph (5)(a), “the initiation of proceedings for” were omitted;
- (k) regulation 11 (right of admission to the United Kingdom);
- (l) regulation 21 (procedure for applications for documentation under this Part and regulation 12);
- (m) regulation 22 (verification of a right of residence);
- (n) regulation 23 (exclusion and removal from the United Kingdom) with the modification that in each of paragraphs (1), (5), (6)(b) and (7)(b), after “regulation 27”, there were inserted “or on conducive grounds in accordance with regulation 27A or if the person is subject to a deportation order by virtue of section 32 of the UK Borders Act 2007(7)”;
- (o) regulation 24(1), (3),(4), (6) and (7) (refusal to issue or renew and revocation of residence documentation), with the modification that references to revocation are omitted;

- (p) regulation 27 (decisions taken on grounds of public policy, public security and public health) with the modification that after regulation 27 there were inserted—

“Decisions taken on conducive grounds

27A.—(1) An EEA decision may be taken on the ground that the decision is conducive to the public good.

(2) But a decision may only be taken under this regulation in relation to a person as a result of conduct of that person that took place after IP completion day.”;

- (q) regulation 28 (application of Part 4 to a person with a derivative right to reside) in so far as it applies to a person within regulation 28(1)(c),
- (r) regulation 32 (person subject to removal) with the modification that in paragraph (5), after “public health”, there were inserted “in accordance with regulation 27 or on conducive grounds in accordance with regulation 27A”;
- (s) regulation 33 (human rights considerations and interim orders to suspend removal);
- (t) regulation 35 (interpretation of Part 6) in respect of the interpretation of the provisions which continue to apply by virtue of paragraph 4 or 5;
- (u) regulation 36 (appeal rights);
- (v) regulation 37 (out of country appeals);
- (w) regulation 38 (appeals to the Commission);
- (x) regulation 39 (national security: EEA decisions);
- (y) regulation 40 (effect of appeals to the First-tier Tribunal or Upper Tribunal);
- (z) regulation 41 (temporary admission to submit case in person);
- (aa) regulation 42 (alternative evidence of identity and nationality);
- (bb) Schedule 1 (considerations of public policy, public security and the fundamental interests of society etc.) with the modification that for paragraph 1 there were substituted—

“1. The United Kingdom enjoys considerable discretion, acting within the parameters set by the law, to define its own standards of public policy and public security, for purposes tailored to its individual context from time to time.”.

- (cc) Schedule 2 (appeals to the First-tier Tribunal) with the modification that—
 - (aa) in relation to an appeal within paragraph 5(1)(a) to (c), in each of paragraphs 1 and 2(4), the words “under the EU Treaties”, in so far as they relate to things done on or after exit day but before commencement day, were a reference to the EU Treaties so far as they were applicable to and in the United Kingdom by virtue of Part 4 of the EU withdrawal agreement;
 - (bb) in relation to an appeal within paragraph 5(1)(d), in each of paragraphs 1 and 2(4), the words “under the EU Treaties”, were a reference to “under the Immigration (European Economic Area) Regulations 2016 as they are continued in effect by these Regulations or the Citizens’ Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020, or by virtue of the EU withdrawal agreement, the EEA EFTA separation agreement (which has the same meaning as in the European Union (Withdrawal Agreement) Act 2020) or the Swiss citizens’ rights agreement (which has the same meaning as in that Act)”.

Nationality, Immigration and Asylum Act 2016- saving in relation to appeals

7. The repeal of section 109 of the Nationality, Immigration and Asylum Act 2002 (power to make regulations about appeals against immigration decisions in respect of persons having, or claiming to have, EU rights), by paragraph 2(1) of Schedule 1 to the 2020 Act, does not affect—

- (a) the power to make regulations under that section which provide for, or make provision about, an appeal in relation to which provisions of the EEA Regulations 2016 continue to have effect by virtue of these Regulations, the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 or the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020; or
- (b) the operation of any regulations made under that section insofar as they continue to have effect on or after commencement day by virtue of these Regulations or by virtue of any of the other Regulations of 2020 referred to in sub-paragraph (a).