

SCHEDULE 2

Regulation 30

EFFECT ON OTHER LEGISLATION

Leave under the 1971 Act

1.—(1) In accordance with section 7 of the Immigration Act 1988^{M1}, a person who is admitted to or acquires a right to reside in the United Kingdom under these Regulations shall not require leave to remain in the United Kingdom under the 1971 Act during any period in which he has a right to reside under these Regulations but such a person shall require leave to remain under the 1971 Act during any period in which he does not have such a right.

(2) [^{F1}Subject to sub-paragraph (3),] where a person has leave to enter or remain under the 1971 Act which is subject to conditions and that person also has a right to reside under these Regulations, those conditions shall not have effect for as long as the person has that right to reside.

[^{F2}(3) Where the person mentioned in sub-paragraph (2) is an accession State national subject to worker authorisation working in the United Kingdom during the accession period and the document endorsed to show that the person has leave is an accession worker authorisation document, any conditions to which that leave is subject restricting his employment shall continue to apply.

(4) In sub-paragraph (3)—

- (a) “ accession period ” has the meaning [^{F3}given in regulation 1(2)(c) of the Accession (Immigration and Worker Authorisation) Regulations 2006; [^{F3}given in—]
 - (b) “ accession State national subject to worker authorisation ” has the meaning [^{F4}given in regulation 2 of those Regulations; and [^{F4}given in—]
 - (c) “ accession worker authorisation document ” has the meaning [^{F5}given in regulation 9(2) of those Regulations. [^{F5}given in—]]
- (i) regulation 9(2) of the Accession (Immigration and Worker Authorisation) Regulations 2006, in relation to a person who is an accession State national subject to worker authorisation within the meaning of regulation 2 of those Regulations; and
- (ii) regulation 1(2) of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013, in relation to a person who is an accession State national subject to worker authorisation within the meaning of regulation 2 of those Regulations.]

Textual Amendments

- F1** Words in Sch. 2 para. 1(2) inserted (1.1.2007) by [Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), reg. 1(1), **Sch. 2 para. 2(2)(a)(i)**
- F2** Sch. 2 para. 1(3)(4) inserted (1.1.2007) by [Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), reg. 1(1), **Sch. 2 para. 2(2)(a)(ii)**
- F3** Words in Sch. 2 para. 1(4)(a) substituted (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), reg. 1(1), **Sch. para. 2(a)** (with reg. 11(8))
- F4** Words in Sch. 2 para. 1(4)(b) substituted (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), reg. 1(1), **Sch. para. 2(b)** (with reg. 11(8))
- F5** Words in Sch. 2 para. 1(4)(c) substituted (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), reg. 1(1), **Sch. para. 2(c)** (with reg. 11(8))

Marginal Citations

- M1** 1988 c. 14.

Changes to legislation: There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2006, SCHEDULE 2. (See end of Document for details)

Persons not subject to restriction on the period for which they may remain

2.—(1) For the purposes of the 1971 Act and the British Nationality Act 1981 ^{M2}, a person who has a permanent right of residence under regulation 15 shall be regarded as a person who is in the United Kingdom without being subject under the immigration laws to any restriction on the period for which he may remain.

(2) But a qualified person, the family member of a qualified person [^{F6}, a person with a derivative right of residence] and a family member who has retained the right of residence shall not, by virtue of that status, be so regarded for those purposes.

Textual Amendments

F6 Words in Sch. 2 para. 2(2) inserted (16.7.2012) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2012 \(S.I. 2012/1547\)](#), reg. 2(1), **Sch. 1 para. 22** (with Sch. 3)

Marginal Citations

M2 1981 c. 61.

Carriers' liability under the 1999 Act

3. For the purposes of satisfying a requirement to produce a visa under section 40(1)(b) of the 1999 Act ^{M3} (charges in respect of passenger without proper documents), “ a visa of the required kind ” includes an EEA family permit, a residence card [^{F7}, a derivative residence card] [^{F8}, a qualifying EEA State residence card] [^{F9}, permission to be temporarily admitted under regulation 29AA] or a permanent residence card required for admission under regulation 11(2).

Textual Amendments

F7 Words in Sch. 2 para. 3 inserted (16.7.2012) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2012 \(S.I. 2012/1547\)](#), reg. 2(1), **Sch. 1 para. 23** (with Sch. 3)

F8 Words in Sch. 2 para. 3 inserted (7.4.2014) by [The Immigration \(European Economic Area\) \(Amendment\) \(No.2\) Regulations 2013 \(S.I. 2013/3032\)](#), reg. 2(2), **Sch. 1 para. 25(a)**

F9 Words in Sch. 2 para. 3 inserted (28.7.2014) by [The Immigration \(European Economic Area\) \(Amendment\) \(No.2\) Regulations 2014 \(S.I. 2014/1976\)](#), reg. 1, **Sch. para. 9** (with reg. 4)

Marginal Citations

M3 Section 40 was substituted by paragraph 13 of Schedule 8 to the 2002 Act.

Appeals under the 2002 Act and previous immigration Acts

4.—(1) [^{F10} The following EEA decisions shall not be treated as immigration decisions for the purpose of section 82(2) of the 2002 Act (right of appeal against an immigration decision)—

- (a) a decision that a person is to be removed under regulation 19(3)(a) [^{F11} or 19(3)(c)] by way of a direction under section 10(1)(a) of the 1999 Act (as provided for by regulation 24(2));
- (b) a decision to remove a person under regulation 19(3)(b) by making a deportation order under section 5(1) of the 1971 Act (as provided for by regulation 24(3));
- (c) a decision to remove a person mentioned in regulation 24(4) by way of directions under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.]

(2) [F10 A person who has been issued with a registration certificate, residence card, [F12 derivative residence card,] a document certifying permanent residence or a permanent residence card under these Regulations [F13 (including a registration certificate under these Regulations as applied by regulation 7 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013)] or a registration certificate under the Accession (Immigration and Worker Registration) Regulations 2004, [F14 or an accession worker card under the Accession (Immigration and Worker Authorisation) Regulations 2006,] [F15 or a worker authorisation registration certificate under the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013,] or a person whose passport has been stamped with a family member residence stamp, shall have no right of appeal under section 2 of the Special Immigration Appeals Commission Act 1997 or section 82(1) of the 2002 Act. Any existing appeal under those sections of those Acts or under the Asylum and Immigration Appeals Act 1993, the Asylum and Immigration Act 1996 or the 1999 Act shall be treated as abandoned.]

(3) [F10 Subject to paragraph (4), a person may appeal to the [F16 First-tier Tribunal] under section 83(2) of the 2002 Act against the rejection of his asylum claim where—

- (a) that claim has been rejected, but
- (b) he has a right to reside in the United Kingdom under these Regulations.]

(4) [F10 Paragraph (3) shall not apply if the person is an EEA national and the Secretary of State certifies that the asylum claim is clearly unfounded.]

(5) [F10 The Secretary of State shall certify the claim under paragraph (4) unless satisfied that it is not clearly unfounded.]

(6) [F10 In addition to the national of a State which is a contracting party to the Agreement referred to in section 84(2) of the 2002 Act, a Swiss national shall also be treated as an EEA national for the purposes of section 84(1)(d) of that Act.]

(7) [F10 An appeal under these Regulations against an EEA decision (including an appeal made on or after 1st April 2003 which is treated as an appeal under these Regulations under Schedule 4 but not an appeal made before that date) shall be treated as an appeal under section 82(1) of the 2002 Act against an immigration decision for the purposes of section 96(1)(a) of the 2002 Act.]

[F17 (8) Section 120 of the 2002 Act applies to a person (“P”) if an EEA decision has been taken or may be taken in respect of P and, accordingly, the Secretary of State or an immigration officer may by notice require a statement from P under subsection (2) of that section, and that notice has effect for the purpose of section 96(2) of the 2002 Act.

[F17 (9) Where section 120 of the 2002 Act so applies, it has effect as though—

- (a) subsection (3) also provides that a statement under subsection (2) need not repeat reasons or grounds relating to the EEA decision under challenge previously advanced by P; and
- (c) subsection (5) also applies where P does not have a right to reside in the United Kingdom under these Regulations, or only has such a right to reside by virtue of regulation 15B of these Regulations (continuation of a right of residence).

(9) [F18 In sub-paragraph [F19 (2)], “family member residence stamp ”means a stamp in the passport of a family member of an EEA national confirming that he is the family member of an accession State worker requiring registration [F20 or an accession State national subject to worker authorisation working in the United Kingdom] with a right of residence under these Regulations as the family member of that worker; and in this sub-paragraph “accession State worker requiring registration” has the same meaning as in regulation 2 of the Accession (Immigration and Worker Registration) Regulations 2004 [F20 and “accession State national subject to worker authorisation” has the meaning given in regulation 2 of the Accession (Immigration and Worker Authorisation) Regulations 2006].]

Changes to legislation: There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2006, SCHEDULE 2. (See end of Document for details)

(10) For the purposes of an appeal brought pursuant to section 82(1) of the 2002 Act, subsections (2) and (6)(a) of section 85 (matters to be considered) have effect as though section 84 included a ground of appeal that the decision appealed against breaches the appellant's rights under the EU Treaties in respect of entry to or residence in the United Kingdom.]]

Textual Amendments

- F10** Sch. 2 para. 4(1)-(7) omitted (6.4.2015) by virtue of [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, **Sch. 1 para. 16(a)** (with reg. 6)
- F11** Words in Sch. 2 para. 4(1)(a) inserted (1.1.2014) by [The Immigration \(European Economic Area\) \(Amendment\) \(No.2\) Regulations 2013 \(S.I. 2013/3032\)](#), reg. 2(1), **Sch. 1 para. 25(b)**
- F12** Words in Sch. 2 para. 4(2) inserted (16.7.2012) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2012 \(S.I. 2012/1547\)](#), reg. 2(1), **Sch. 1 para. 24(a)** (with Sch. 3)
- F13** Words in Sch. 2 para. 4(2) inserted (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), reg. 1(1), **Sch. para. 3(a)** (with reg. 11(8))
- F14** Words in Sch. 2 para. 4(2) inserted (1.1.2007) by [Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), reg. 1(1), **Sch. 2 para. 2(2)(b)(i)**
- F15** Words in Sch. 2 para. 4(2) inserted (1.7.2013) by [The Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013 \(S.I. 2013/1460\)](#), reg. 1(1), **Sch. para. 3(b)** (with reg. 11(8))
- F16** Words in Sch. 2 para. 4(3) substituted (15.2.2010) by [The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 \(S.I. 2010/21\)](#), art. 1, **Sch. 2 para. 27** (with Sch. 4 para. 1)
- F17** Sch. 2 para. 4(8) substituted for (8) to (10) (6.4.2015) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, **Sch. 1 para. 16(b)** (with reg. 6)
- F18** Sch. 2 para. 4(9) omitted (6.4.2015) by virtue of [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2015 \(S.I. 2015/694\)](#), reg. 2, **Sch. 1 para. 16(a)** (with reg. 6)
- F19** Word in Sch. 2 para. 4(9) substituted (16.7.2012) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2012 \(S.I. 2012/1547\)](#), reg. 2(1), **Sch. 1 para. 24(b)** (with Sch. 3)
- F20** Words in Sch. 2 para. 4(9) inserted (1.1.2007) by [Accession \(Immigration and Worker Authorisation\) Regulations 2006 \(S.I. 2006/3317\)](#), reg. 1(1), **Sch. 2 para. 2(2)(c)**

Changes to legislation:

There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2006, SCHEDULE 2.