STATUTORY INSTRUMENTS

2015 No. 694

IMMIGRATION

The Immigration (European Economic Area) (Amendment) Regulations 2015

Made - - - -	*12th March 2015*
Laid before Parliament	*16th March 2015*
Coming into force - -	*6th April 2015*

The Secretary of State, being a Minister designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to measures relating to rights of entry into, and residence in, the United Kingdom, in exercise of the powers conferred by that section, and of the powers conferred by section 109 of the Nationality, Immigration and Asylum Act 2002 [F3] and section 4 of the European Union (Croatian Accession and Irish Protocol) Act 2013 [F4], makes the following Regulations.[F5]

Annotations:

F1 S.I. 2000/1813.

F2 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51), and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

F3 2002 c. 41; section 109 was amended by S.I. 2011/1043.

F4 2013 c. 5.

F5 Regulations revoked (1.2.2017 for specified purposes) by The Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052), **Sch. 4 para. 1**

Citation

1. These Regulations may be cited as the Immigration (European Economic Area) (Amendment) Regulations 2015.

Commencement

2. These Regulations come into force on 6th April 2015.

Interpretation

3. In these Regulations—

"the 2006 Regulations" means the Immigration (European Economic Area) Regulations 2006 [F6];

"the 2013 Regulations" means the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 [F7];

"EEA decision" has the meaning given in regulation 2(1) of the 2006 Regulations.

Annotations:

F6 S.I. 2006/1003; amended by S.I. 2006/3317, 2009/1117, 2010/21, 2011/1247, 2012/1547, 2560, 2013/1460, 3032, 2014/1976; there are other amending instruments but none is relevant.

F7 S.I. 2013/1460, amended by S.I. 2014/530.

Amendments to the 2006 Regulations

4. The 2006 Regulations are amended as set out in Schedule 1 to these Regulations.

Amendments to the 2013 Regulations

5. The 2013 Regulations are amended as set out in Schedule 2 to these Regulations.

Transitional provision

6. The amendments to the 2006 Regulations made by paragraphs 11, 12, 13(c)(ii) and (iii) and (d), 15 and 16 of Schedule 1 have no effect in relation to an appeal against an EEA decision where that decision was taken before 6th April 2015.

James Brokenshire
Minister of State

Home Office

SCHEDULE 1

Regulation 4

Amendments to the 2006 Regulations

Regulation 2 (general interpretation)

1. In regulation 2(1)—

(a) in the appropriate place, insert " "the 2014 Act" means the Immigration Act 2014 [F8]; ";

(b) in the definition of "qualifying EEA State residence card"—

(i) in sub-paragraph (a), for "a document" substitute " a valid document "; and

(ii) in sub-paragraph (b), for "Germany and Estonia" substitute " any EEA State, except Switzerland ".

Annotations:
F8 2014 c. 22.

Regulation 4 ("worker", "self-employed person", "self-sufficient person" and "student")

2. In regulation 4—

(a) in paragraph (2), after "(1)(c)", insert " or (d) ";

(b) omit paragraph (3);

(c) in paragraph (4), for "paragraphs (2) and (3)" substitute " paragraph (2) ".

Regulation 11 (right of admission to the United Kingdom)

3. In regulation 11(8), after "(2)" insert " and 23A ".

Regulation 13 (initial right of residence)

4. In regulation 13(4)—

(a) after "Secretary of State", insert " or an immigration officer ";

(b) in sub-paragraph (a), for " or 20A(1)" substitute " , 20A(1) or 23A ".

Regulation 14 (extended right of residence)

5. In regulation 14(5)—

(a) after "Secretary of State", insert " or an immigration officer ";

(b) in sub-paragraph (a), for " or 20A(1)" substitute " , 20A(1) or 23A ".

Regulation 15 (permanent right of residence)

6. In regulation 15(3)—

(a) after "Secretary of State", insert " or an immigration officer ";

(b) in sub-paragraph (a), for " or 20A(1)" substitute " , 20A(1) or 23A ".

Regulation 15A (derivative right of residence)

7. In regulation 15A(9)—

(a) after "Secretary of State", insert " or an immigration officer ";

(b) in sub-paragraph (a), for " or 20A(1)" substitute " , 20A(1) or 23A ".

Regulation 20 (refusal to issue or renew and revocation of residence documentation)

8. In regulation 20(1A)—

(a) after "regulation 19(3)", insert " or 24(4) ";

(b) after "United Kingdom", insert " , or a decision under regulation 23A to revoke a person's admission to the United Kingdom, ".

New regulation 23A (revocation of admission)

9. After regulation 23, insert—

"**Revocation of admission**

23A.—(1) This regulation applies to a person admitted to the United Kingdom under regulation 11 in circumstances where, pursuant to regulation 19(1) (exclusion justified on grounds of public policy, public security or public health), (1A) (person subject to deportation order or exclusion order) or (1AB) (reasonable grounds to suspect that admission would lead to the abuse of a right to reside), that person was not entitled to be admitted.

(2) Paragraph 6(2) of Schedule 2 to the 1971 Act [F9] (administrative provisions as to control on entry: refusal of leave to enter) applies to a person to whom this regulation applies, as though the references—

(a) to that person's examination under paragraph 2 of Schedule 2 to the 1971 Act [F10] were to that paragraph as applied by regulation 22(2)(a) and (c) of these Regulations;

(b) to notices of leave to enter the United Kingdom were to a decision to admit that person to the United Kingdom under these Regulations;

(c) to the cancellation of such a notice and the refusal of leave to enter were to revocation of the decision to admit that person to the United Kingdom under this regulation.

(3) Where a person's admission to the United Kingdom is revoked, that person is to be treated as a person to whom admission to the United Kingdom has been refused and regulation 23 applies accordingly.".

Annotations:

F9 1971 c. 77; paragraph 6(2) of Schedule 2 was amended by paragraph 7(1) of the Schedule to the Immigration Act 1988 (c. 14).

F10 Paragraph 2 of Schedule 2 was amended by paragraph 2 of Schedule 4 to the British Nationality Act 1981 (c. 61); paragraph 56 of Schedule 14 to the Immigration and Asylum Act 1999 (c. 33); and by S.I. 1993/1813.

Regulation 24 (person subject to removal)

10. In regulation 24, in paragraph (4), after "exclusion order" insert " , or in circumstances where that person was not entitled to be admitted pursuant to regulation 19(1) or (1AB), ".

Regulation 25 (interpretation of Part 6 of the 2006 Regulations)

11. In regulation 25(1), omit the definitions of "Asylum claim" and "Human rights claim".

Regulation 26 (appeal rights)

12. In regulation 26, after paragraph (7), insert—

"(8) For the avoidance of doubt, nothing in this Part prevents a person who enjoys a right of appeal under this regulation from appealing to the First-tier Tribunal under section 82(1) of the 2002 Act [F11] (right of appeal to the Tribunal), or, where relevant, to the Commission pursuant to section 2 of the Special Immigration Appeals Act 1997 [F12] (jurisdiction of the Commission: appeals), provided the criteria for bringing such an appeal under those Acts are met.".

Annotations:

F11 Section 82(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) was amended by section 15(2) of the Immigration Act 2014.

F12 1997 c. 68; section 2 was amended by Schedule 7 to the Nationality, Immigration and Asylum Act 2002, paragraph 14 of Schedule 1 to the Immigration, Asylum and Nationality Act 2006 (c. 13), and paragraphs 2 and 26 of Schedule 9 to the Immigration Act 2014.

Regulation 27 (out of country appeals)

13. In regulation 27—

(a) after paragraph (1)(a), insert—

"(zaa) to revoke his admission to the United Kingdom;";

(b) in paragraph (1)(d), after "exclusion order" insert " , or in circumstances where that person was not entitled to be admitted pursuant to regulation 19(1) or (1AB) ";

(c) in paragraph (2)—

(i) for "(1)(a) and (aa)" substitute " (1)(a) to (aa) ";

(ii) after sub-paragraph (a), insert " or ";

(iii) in sub-paragraph (b), at the end, for ";" substitute " . "; and

(d) omit paragraphs (2)(c) (asylum or human rights claim made in the United Kingdom) and (3) (certain appeals raising asylum and human rights claims may be brought from within the United Kingdom).

Regulation 29 (effect of appeals to the First-tier Tribunal or Upper Tribunal)

14. In regulation 29, in paragraph (4), after "admit him", insert " , or a decision to revoke his admission, ".

Schedule 1 (Appeals to the First-tier Tribunal)

15. In paragraph 1 of Schedule 1, for "against an immigration decision under section 82(1) of that Act" to "sections 85 to 87;" substitute—

"against a decision of the Secretary of State under section 82(1) of the 2002 Act [F13] (right of appeal to the Tribunal)—"