



European Union (Withdrawal Agreement) Act 2020

2020 CHAPTER 1

PART 3

CITIZENS' RIGHTS

Rights in relation to entry and residence

10 Retention of existing grounds for deportation

(1) Section 3 of the Immigration Act 1971 (general provisions for regulation and control) is amended in accordance with subsections (2) to (4).

(2) After subsection (5) insert—

“(5A) The Secretary of State may not deem a relevant person’s deportation to be conducive to the public good under subsection (5) if the person’s deportation—

(a) would be in breach of the obligations of the United Kingdom under Article 20 of the EU withdrawal agreement, Article 19 of the EEA EFTA separation agreement, or Article 17 or 20(3) of the Swiss citizens’ rights agreement, or

(b) would be in breach of those obligations if the provision in question mentioned in paragraph (a) applied in relation to the person.”

(3) After subsection (6) insert—

“(6A) A court may not recommend under subsection (6) that a relevant person be deported if the offence for which the person was convicted consisted of or included conduct that took place before IP completion day.”

(4) After subsection (9) insert—

“(10) For the purposes of this section, a person is a “relevant person”—

Status: This is the original version (as it was originally enacted).

- (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 26a(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.

(11) In this section—

“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.”

(5) In section 33 of the UK Borders Act 2007 (exceptions to automatic deportation), after subsection (6A), insert—

“(6B) Exception 7 is where—

- (a) the foreign criminal is a relevant person, and
- (b) the offence for which the foreign criminal was convicted as mentioned in section 32(1)(b) consisted of or included conduct that took place before IP completion day.

(6C) For the purposes of subsection (6B), a foreign criminal is a “relevant person”—

- (a) if the foreign criminal is in the United Kingdom (whether or not they have entered within the meaning of section 11(1) of the Immigration Act 1971) having arrived with entry clearance granted by virtue of relevant entry clearance immigration rules,
- (b) if the foreign criminal has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,
- (c) if the foreign criminal 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 26a(1)(b) of the Swiss citizens' rights agreement,
 whether or not the foreign criminal has been granted such leave, or

- (d) if the foreign criminal 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 foreign criminal has entered by virtue of those regulations.

(6D) In this section—

“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.”

- (6) In section 3(10) of the Immigration Act 1971 and section 33(6C) of the UK Borders Act 2007 (for which see subsections (4) and (5) above), references to having leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules include references to having such leave granted by virtue of those rules before section 17 comes into force.