

STATUTORY INSTRUMENTS

2018 No. 1149

The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018

[^{F1}PART 6 U.K.]

Transitional and saving provision: limited permission to carry on a regulated activity

[^{F1}CHAPTER 1 U.K.]

Temporary limited permission to carry on a regulated activity

Textual Amendments

- F1** Pt. 6 inserted (1.3.2019) by [The Financial Services Contracts \(Transitional and Saving Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/405\)](#), regs. 1(2), 2

Deemed permission under Part 4A of the Financial Services and Markets Act 2000 U.K.

28.—(1) A person to whom this regulation applies shall be treated as if the person has permission to carry on a regulated activity in the United Kingdom under Part 4A of the 2000 Act.

(2) The regulated activity a person is permitted to carry on by virtue of this regulation is one specified (by reference to regulations 30 to 32) in regulation 33.

(3) Reference in an enactment to a person with permission under Part 4A of the 2000 Act (however expressed) is to be read, unless the contrary intention appears, as including a person treated as having permission to carry on a regulated activity under that Part by virtue of this regulation.

(4) Accordingly, a power of a regulator under the 2000 Act is exercisable in respect of such a person, and a regulated activity the person is permitted to carry on by virtue of this regulation, as it is in respect of a person with permission under Part 4A of that Act, and a regulated activity the person is permitted to carry on by virtue of Part 4A of that Act.

(5) Such a power is exercisable in relation to, in particular—

- (a) the variation or cancellation of a permission to carry on a regulated activity, or
- (b) the imposition of requirements, prohibitions or restrictions on a person who has such a permission.

Modifications etc. (not altering text)

- C1** Reg. 28 applied (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **36(1)(3)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

Application of regulation 28 **U.K.**

29.—(1) Regulation 28 applies to a person who—

- (a) is authorised, under the law of the person’s home state, to carry on an activity which is regulated by the person’s home state regulator, and
- (b) satisfies the conditions in regulation 30, 31 or 32.

(2) If a person satisfies the conditions in regulation 31, a regulator may direct that, nevertheless, regulation 28 does not apply to the person.

(3) Regulation 28 applies to a person for the period determined in accordance with regulation 41.

Conditions to be satisfied for regulation 28 to apply: persons who cease to be authorised on [^{F2}IP completion day] **U.K.**

30.—(1) The conditions are that the person is one—

- (a) who, immediately before [^{F3}IP completion day]—
 - (i) is authorised to carry on a regulated activity in the United Kingdom by virtue of section 31(1)(b) or (c) of the 2000 Act, and
 - (ii) is carrying on such an activity [^{F4}or, subject to paragraph (3), providing a payment service] in the United Kingdom through an establishment in the United Kingdom,

[who is not a Gibraltar firm,]
^{F5}(aa)

- (b) who, immediately before [^{F3}IP completion day], is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act,
- (c) who, on [^{F3}IP completion day], is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act, and
- (d) to whom, on [^{F3}IP completion day], regulation 8 does not apply.

(2) In this regulation—

- (a) reference to carrying on a regulated activity at a particular time includes where the performance of a pre-existing contract requires, or may require, a regulated activity to be carried on at another time;
- (b) reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 28.

[^{F6}(3) The reference to providing a payment service in paragraph (1)(a)(ii) applies only to a credit institution which was providing the service through an establishment in the United Kingdom immediately before [^{F3}IP completion day] in accordance with the exercise of an EEA passport right under Title 5 of [Directive 2013/36/EU](#) as in force immediately before [^{F3}IP completion day].]

Textual Amendments

- F2** Words in reg. 30 heading substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(r)**
- F3** Words in reg. 30 substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(r)**
- F4** Words in reg. 30(1)(a)(ii) inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(2)(a)**

- F5** Reg. 30(1)(aa) inserted (16.3.2019) by [The Financial Services \(Gibraltar\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/589\)](#), regs. 1(2), **11(5)**
- F6** Reg. 30(3) inserted (6.9.2019) by [The Financial Services \(Electronic Money, Payment Services and Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1212\)](#), regs. 1(2), **6(2)(b)**

Conditions to be satisfied for regulation 28 to apply: persons to whom regulation 8 ceases to apply **U.K.**

31.—(1) The conditions are that the person is one—

- (a) to whom regulation 8 ceases to apply, in accordance with regulation 17,
- (b) who, immediately before that regulation ceases to apply, is carrying on a regulated activity in the United Kingdom, and
- (c) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act.

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 28.

Conditions to be satisfied for regulation 28 to apply: persons to whom regulation 47 ceases to apply **U.K.**

32.—(1) The conditions are that the person is one—

- (a) to whom regulation 47 ceases to apply, in accordance with regulation 55,
- (b) who, on that regulation ceasing to apply, is not authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act, and
- (c) who is the subject of a direction under regulation 55(1)(b).

(2) In this regulation, reference to authorisation to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act does not include such an authorisation by virtue of regulation 28.

Regulated activities to which regulation 28 applies **U.K.**

33.—(1) A regulated activity a person is permitted to carry on by virtue of regulation 28 is one—

- (a) which is necessary for the performance of a pre-existing contract,
- (b) which is carried on for the purposes of performing such a contract, and
- (c) to which paragraph (2) applies.

(2) This paragraph applies to a regulated activity—

- (a) in the case of a person who satisfies the conditions in regulation 30, which the person is, immediately before ^[F7]IP completion day], authorised to carry on in the United Kingdom by virtue of section 31(1)(b) or (c) of the 2000 Act;
- (b) in the case of a person who satisfies the conditions in regulation 31, which the person is, immediately before the day on which regulation 8 ceases to apply, permitted to carry on in the United Kingdom by virtue of that regulation;
- (c) in the case of a person who satisfies the conditions in regulation 32, in respect of which the person is, immediately before regulation 47 ceases to apply, an exempt person by virtue of that regulation.

(3) For the purposes of paragraph (1), the performance of a pre-existing contract includes the performance of an obligation under the contract which is contingent or conditional.

(4) The person is also permitted to carry on a regulated activity which is necessary—

Changes to legislation: *The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, CHAPTER 1 is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) for the purposes of reducing the financial risk of—
 - (i) a party to a pre-existing contract, or
 - (ii) a third-party affected by the performance of a pre-existing contract;
 - (b) in order to transfer the property, rights or liabilities under a pre-existing contract to a person authorised to carry on a regulated activity by virtue of section 31(1)(a) of the 2000 Act (other than by virtue of these Regulations);
 - (c) in order to comply with a requirement imposed by or under an enactment.
- (5) A person is only permitted to carry on a regulated activity in so far as is necessary for the purposes specified in paragraph (1) or (3).
- (6) This regulation is subject to the power of a regulator to vary or cancel a permission under Part 4A of the 2000 Act.]

Textual Amendments

F7 Words in [reg. 33](#) substituted (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), regs. 1, **6(2)(s)**

Changes to legislation:

The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, CHAPTER 1 is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)