
DRAFT STATUTORY INSTRUMENTS

2013 No.

**The Accession of Croatia (Immigration and
Worker Authorisation) Regulations 2013**

PART 1

INTERPRETATION ETC

“Accession State national subject to worker authorisation”

2.—(1) Subject to the following paragraphs of this regulation, other than where these Regulations expressly refer to an accession State national subject to worker authorisation within the meaning of regulation 2 of the EU2 Regulations, in these Regulations “accession State national subject to worker authorisation” means a Croatian national.

(2) A Croatian national is not an accession State national subject to worker authorisation if, on 30th June 2013, he had leave to enter or remain in the United Kingdom under the 1971 Act that was not subject to any condition restricting his employment, or he is given such leave after that date.

(3) A Croatian national is not an accession State national subject to worker authorisation if he was legally working in the United Kingdom on 30th June 2013 and had been legally working in the United Kingdom without interruption throughout the preceding period of 12 months ending on that date.

(4) A Croatian national who legally works in the United Kingdom without interruption for a period of 12 months falling partly or wholly after 30th June 2013 ceases to be an accession State national subject to worker authorisation at the end of that period of 12 months.

(5) For the purposes of paragraphs (3) and (4) of this regulation—

(a) a person working in the United Kingdom during a period falling before 1st July 2013 was legally working in the United Kingdom during that period if—

(i) he had leave to enter or remain in the United Kingdom under the 1971 Act for that period, that leave allowed him to work in the United Kingdom, and he was working in accordance with any condition of that leave restricting his employment;

(ii) he was exempt from the provisions of the 1971 Act by virtue of section 8(2) or (3) of that Act (persons exempted by order or membership of diplomatic mission); or

(iii) he was entitled to reside in the United Kingdom for that period under the EEA Regulations without the requirement for such leave;

(b) a person working in the United Kingdom on or after 1st July 2013 is legally working in the United Kingdom during any period in which he—

(i) falls within any of paragraphs (6) to (16) or (18); or

(ii) holds an accession worker authorisation document and is working in accordance with the conditions set out in that document; and

(c) a person shall be treated as having worked in the United Kingdom without interruption for a period of 12 months if—

- (i) he was legally working in the United Kingdom at the beginning and end of that period; and
- (ii) during that period of 12 months, if his work in the United Kingdom was interrupted, any intervening periods of interruption did not exceed 30 days in total.

(6) Other than during any period in which he is also an accession State national subject to worker authorisation within the meaning of regulation 2 of the EU2 Regulations, a Croatian national is not an accession State national subject to worker authorisation during any period in which he is also a national of—

- (a) the United Kingdom; or
- (b) an EEA State, other than Croatia.

(7) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is also an accession State national subject to worker authorisation within the meaning of regulation 2 of the EU2 Regulations and is working in accordance with those Regulations.

(8) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is the spouse, civil partner, unmarried or same sex partner, or child under 18 of a person who has leave to enter or remain in the United Kingdom under the 1971 Act and that leave allows him to work in the United Kingdom.

(9) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is the spouse, civil partner, unmarried or same sex partner of—

- (a) a national of the United Kingdom; or
- (b) a person that is settled in the United Kingdom in accordance with the meaning given in section 33(2A) (interpretation – meaning of “settled”)(1) of the 1971 Act.

(10) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is a member of a mission or other person mentioned in section 8(3) (member of a diplomatic mission, the family member of such a person, or a person otherwise entitled to diplomatic immunity) of the 1971 Act, other than a person who, under section 8(3A) (conditions of membership of a mission) of that Act, does not count as a member of a mission for the purposes of section 8(3).

(11) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is a person who is exempt from all or any of the provisions of the 1971 Act by virtue of an order made under section 8(2) (exemption for persons specified by order) of that Act.

(12) A Croatian national is not an accession State national subject to worker authorisation during any period in which he has a permanent right of residence under regulation 15 of the EEA Regulations.

(13) Subject to paragraph (14), a Croatian national is not an accession State national subject to worker authorisation during any period in which he is a family member (X) of an EEA national (Y) who has a right to reside in the United Kingdom.

(14) Where Y is an accession State national subject to worker authorisation under these Regulations or an accession State national subject to worker authorisation within the meaning of regulation 2 of the EU2 Regulations, paragraph (13) only applies where X is the—

- (a) spouse or civil partner of Y;
- (b) unmarried or same sex partner of Y; or
- (c) a direct descendant of Y, Y’s spouse or Y’s civil partner who is—
 - (i) under 21; or

(1) Section 33(2A) was inserted by section 39(6) of, and Schedule 4 to, the British Nationality Act 1981 (c. 61).

(ii) dependant of Y, Y's spouse or Y's civil partner.

(15) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is a highly skilled person and holds an EEA registration certificate issued in accordance with regulation 7 that includes a statement that he has unconditional access to the United Kingdom labour market.

(16) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is in the United Kingdom as a student and either—

- (a) holds an EEA registration certificate that includes a statement that he is a student who may work in the United Kingdom whilst a student in accordance with the condition set out in paragraph (17) and complies with that condition; or
- (b) has leave to enter or remain under the 1971 Act as a student and is working in accordance with any conditions attached to that leave.

(17) The condition referred to in paragraph (16)(a) is that the student shall not work for more than 20 hours a week unless—

- (a) he is following a course of vocational training and is working as part of that training; or
- (b) he is working during his vacation.

(18) A Croatian national who ceases to be a student at the end of his course of study is not an accession State national subject to worker authorisation during the period of four months beginning with the date on which his course ends provided he holds an EEA registration certificate that was issued to him before the end of the course that includes a statement that he may work during that period.

(19) A Croatian national is not an accession State national subject to worker authorisation during any period in which he is a posted worker.

(20) In paragraph (19), “posted worker” means a worker who is posted to the United Kingdom, within the meaning of Article 1(3) of the Council Directive [96/71/EC](#) of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁽²⁾, by an undertaking established in an EEA State.

(2) O.J. L 018, 21.1.1997, p.1