
DRAFT STATUTORY INSTRUMENTS

2018 No.

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

PART 3

**Transitional and saving provision: applications
for permission to carry on a regulated activity**

CHAPTER 1

Modifications of Part 4A of the Financial Services and Markets Act 2000

**Persons to whom the modifications of Part 4A of the Financial Services and Markets Act
2000 apply**

5.—(1) The modifications of Part 4A of the 2000 Act (permission to carry on regulated activities) specified in regulation 6 apply—

- (a) before exit day, in respect of a person who 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;
 - (b) on and after exit day, in respect of a person to whom regulation 8 or 11 applies.
- (2) Paragraph (1)(a) only applies in respect of a person if—
- (a) an application for permission, or for the variation of a permission, under Part 4A of the 2000 Act—
 - (i) is made by the person on or after the day on which this regulation comes into force, or
 - (ii) is made by the person before the day on which this regulation comes into force and has not, immediately before that day, been determined by a regulator in accordance with section 55V of that Act, and
 - (b) the application is in respect of carrying on a regulated activity, on or after exit day, that the person is authorised to carry on by virtue of section 31(1)(b) or (c) of that Act.

Modifications of Part 4A of the Financial Services and Markets Act 2000

6.—(1) Part 4A of the 2000 Act⁽¹⁾ (permission to carry on regulated activities) is modified as follows.

- (2) Section 55A (application for permission) has effect as if—
- (a) in subsection (2), after “subsection (2B)” there were inserted “and to a direction of the PRA or the FCA given with the consent of the other”;
 - (b) in subsection (3), after “is in force” there were inserted “, other than a person who is treated as having such a permission by virtue of regulation 8 of the 2018 Regulations,”.

(1) Part 4A is inserted by section 11(2) of the Financial Services Act 2012 (c. 21).

(3) Section 55H (variation by FCA at request of authorised person) has effect as if, after subsection (7), there were inserted—

“(8) Where a person makes an application to vary the permission that the person is treated as having by virtue of regulation 8 of the 2018 Regulations, the FCA may, if it considers it appropriate to do so, treat the application as an application for permission under section 55A.”

(4) Section 55I (variation by PRA at request of authorised person) has effect as if, after subsection (8), there were inserted—

“(9) Where a person makes an application to vary the permission that the person is treated as having by virtue of regulation 8 of the 2018 Regulations, the PRA may, if it considers it appropriate to do so, treat the application as an application for permission under section 55A.”

(5) Section 55J (variation or cancellation on initiative of regulator) has effect as if, after subsection (1) there were inserted—

“(1A) Either regulator may exercise its power under this section in relation to—

- (a) a person to whom regulation 8 of the 2018 Regulations applies, if the person has not made an application for permission under this Part before the end of the period during which, in accordance with section 55U(4)(c), such an application must be made;
- (b) a person to whom regulation 11 of those Regulations applies, if the person has not made an application to vary a permission under this Part before the end of the period during which, in accordance with section 55U(4)(c), such an application must be made.”

(6) Section 55U (applications under Part 4A) has effect as if—

(a) in subsection (4), after paragraph (b), there were inserted—

“and

(c) be made—

- (i) during such period, ending no later than two years beginning with the day on which exit day occurs, as the regulator to which it is to be made may direct, or
- (ii) if the regulator to which it is to be made does not direct such a period, before the end of two years beginning with the day on which exit day occurs.”;

(b) after subsection (4), there were inserted—

“(4A) The power to give a direction under subsection (4)(c) includes the power—

- (a) to give different directions in relation to different persons or categories of person;
- (b) to vary or revoke a previous direction.”

(7) Section 55V (determination of applications) has effect as if—

- (a) in subsection (1), for the words from “6 months” to the end there were substituted “three years beginning with the day on which exit day occurs.”;
- (b) in subsection (2), for the words from “12 months” to the end there were substituted “three years beginning with the day on which exit day occurs.”;
- (c) after subsection (6) there were inserted—

“(6A) For the purposes of subsection (6), in the case of a person to whom regulation 8 or 11 of the 2018 Regulations applies, the date stated must be a date that falls before the end of the period of three years beginning with the day on which exit day occurs.”

(8) Section 55X (determination of applications: warning notices and decision notices) has effect as if, after subsection (4), there were inserted—

“(4A) If a regulator decides to refuse an application under this Part, the decision notice must, where applicable, state the day on which regulation 8 or 11 of the 2018 Regulations ceases to apply.

(4B) For the purposes of subsection (4A), the day stated must be a day that falls before the end of the period of three years beginning with the day on which exit day occurs.”

(9) Section 55Z (cancellation of Part 4A permission: procedure) has effect as if, after subsection (2), there were inserted—

“(3) If a regulator gives a decision notice under subsection (2) in circumstances where a person to whom regulation 8 or 11 of the 2018 Regulations applies—

(a) has not made an application in accordance with section 55U(4)—

(i) in the case of a person to whom regulation 8 of those Regulations applies, for permission under this Part, or

(ii) in the case of a person to whom regulation 11 of those Regulations applies, to vary a permission under this Part, or

(b) has made such an application but has withdrawn it without submitting another, the notice must state the day on which regulation 8 or 11 ceases to apply.

(4) For the purposes of subsection (3), the day stated must be a day that falls before the end of the period of three years beginning with the day on which exit day occurs.”

(10) Section 55Z4 (interpretation of Part 4A) has effect as if, at the appropriate place, there were inserted—

““the 2018 Regulations” means the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018;”.

Persons who cease to be authorised to carry on a regulated activity before exit day

7.—(1) The modification of Part 4A of the 2000 Act specified in paragraph (2) applies in respect of a person to whom, before exit day, regulation 5(1)(a) ceases to apply.

(2) Section 55V (determination of applications) has effect as if, in subsections (1) and (2), for the words from “it received” to the end there were substituted “regulation 5(1)(a) of the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 ceased to apply to the applicant.”