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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

**The Citizens' Rights (Frontier  
Workers) (EU Exit) Regulations 2020**

**PART 1**

Preliminary

**Citation and commencement**

1.—(1) These Regulations may be cited as the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.

(2) These Regulations come into force on the day after the day on which they are made except—

- (a) the provisions specified in paragraph (3) which come into force on IP completion day;
- (b) the provisions specified in paragraph (4) which come into force on 1st July 2021.

(3) The provisions specified in this paragraph are—

- (a) Part 2, except for the provisions specified in paragraph (4);
- (b) Part 4;
- (c) regulation 24 in so far as it relates to an appeal against a decision made under Part 2 or Part 4; and
- (d) regulation 28.

(4) The provisions specified in this paragraph are regulations 6(1)(b) and 6(2).

**Interpretation**

2. In these Regulations—

“the 1971 Act” means the Immigration Act 1971;

“the 2016 Regulations” means the Immigration (European Economic Area) Regulations 2016(1);

“common travel area” has the same meaning as in section 1(3) of the 1971 Act (general principles);

“decision maker” means the Secretary of State or an immigration officer (as the case may be);

“EEA national” means a national of an EEA state who is not also a British citizen;

“EEA state” means—

- (a) a member State; or
- (b) Iceland, Liechtenstein, Norway or Switzerland;

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(1) [S.I. 2016/1052](#). Amended by [S.I. 2017/1](#), [S.I. 2017/1242](#), [S.I. 2018/801](#), [S.I. 2019/468](#), [S.I. 2019/745](#) (amendments not in force) and [S.I. 2019/1155](#).

“exclusion direction” means a direction issued by the Secretary of State for a person not to be given entry to the United Kingdom on the grounds that the person’s exclusion is conducive to the public good;

“frontier worker” has the meaning given in regulation 3;

“frontier worker permit” means a document which certifies a person’s frontier workers’ rights;

“frontier workers’ rights” means the rights a person has as a frontier worker under Part 2 of the withdrawal agreement, Part 2 of the EEA EFTA separation agreement or Part 2 of the Swiss citizens’ rights agreement<sup>(2)</sup>;

“immigration officer” means a person appointed by the Secretary of State as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971;

“relevant restriction decision” means—

- (a) an exclusion direction;
- (b) a deportation order made by virtue of regulation 15(1)(b);
- (c) an exclusion or deportation order made or treated as having been made by virtue of the 2016 Regulations, including those continued in effect by regulations made under section 7 or 9 of the European Union (Withdrawal Agreement) Act 2020; or
- (d) a deportation order made by virtue of section 3 of the 1971 Act;

“required biometrics” means the biometric information required to be provided by the Immigration (Provision of Physical Data) Regulations 2006<sup>(3)</sup>;

“self-employed person” means a person who is established in the United Kingdom in order to pursue activity as a self-employed person within the meaning of Article 49 on the Treaty of the Functioning of the European Union<sup>(4)</sup>;

“valid identity document” means—

- (a) a valid national identity card issued by an EEA state; or
- (b) a valid passport issued by an EEA state;

“worker” means a worker within the meaning of Article 45 of the Treaty on the Functioning of the European Union.

### Meaning of “frontier worker”

**3.—(1)** A person is a frontier worker for the purposes of these Regulations if they were, immediately before IP completion day, and have been continuously since IP completion day—

- (a) an EEA national;
- (b) not primarily resident in the United Kingdom; and
- (c) either—
  - (i) a worker in the United Kingdom;
  - (ii) a self-employed person in the United Kingdom; or
  - (iii) a person treated as a worker or self-employed person in the United Kingdom by virtue of regulation 4.

(2) For the purposes of paragraph (1), it does not matter if a person changes from one of the statuses in paragraph (1)(c) to another.

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<sup>(2)</sup> These agreements are defined in section 39 of the European Union (Withdrawal Agreement) Act 2020.

<sup>(3)</sup> S.I. 2006/1743. Amended by S.I. 2015/737, S.I. 2018/928 and S.I. 2019/745.

<sup>(4)</sup> OJ No C326, 26.10.12, p65.

(3) For the purposes of paragraph (1), a person is to be treated as not being primarily resident in the United Kingdom at a particular point in time (“the relevant date”) if—

- (a) they have been present in the United Kingdom for less than 180 days in the twelve-month period immediately before the day on which the relevant date falls; or
- (b) they have returned to their country of residence at least—
  - (i) once in the six-month period immediately before the day on which the relevant date falls; or
  - (ii) twice in the twelve-month period immediately before the day on which the relevant date falls,

unless there are exceptional reasons for not having done so.

#### **Retained worker or self-employed person status**

4.—(1) A person who is no longer a worker in the United Kingdom is to be treated as such if the person, immediately following ceasing work in the United Kingdom—

- (a) is temporarily unable to work as the result of an illness or accident;
- (b) is in duly recorded involuntary unemployment after having been employed in the United Kingdom for at least one year, provided the person satisfies paragraph (5);
- (c) is in duly recorded involuntary unemployment after having been employed in the United Kingdom for less than one year, provided the person satisfies paragraph (5);
- (d) is in involuntary unemployment and has embarked on vocational training;
- (e) has voluntarily ceased working and has embarked on vocational training that is related to the person’s previous employment; or
- (f) is temporarily unable to work due to pregnancy or childbirth, provided the person satisfies paragraph (5) 12 months after ceasing work and thereafter.

(2) A person to whom paragraph (1)(c) applies may only retain worker status for a maximum of six months.

(3) A person who is no longer a self-employed person in the United Kingdom is to be treated as such if the person, immediately following ceasing self-employment in the United Kingdom—

- (a) is temporarily unable to engage in activities as a self-employed person as the result of an illness or accident;
- (b) is in duly recorded involuntary unemployment after having worked as a self-employed person in the United Kingdom for at least one year, provided the person satisfies paragraph (5);
- (c) is in duly recorded involuntary unemployment after having worked as a self-employed person in the United Kingdom for less than one year, provided the person satisfies paragraph (5);
- (d) is involuntarily no longer in self-employment and has embarked on vocational training;
- (e) has voluntarily ceased self-employment and has embarked on vocational training that is related to the person’s previous occupation; or
- (f) is temporarily unable to engage in activities as a self-employed person due to pregnancy or childbirth, provided the person satisfies paragraph (5) 12 months after ceasing self-employment and thereafter.

(4) A person to whom paragraph (3)(c) applies may only retain self-employed person status for a maximum of six months.

(5) A person satisfies this paragraph where they have provided evidence that they continue to seek employment or self-employment in the United Kingdom.

(6) A person may not retain the status of—

(a) a worker under paragraph (1)(b); or

(b) a self-employed person under paragraph (3)(b),

for longer than six months without providing compelling evidence of continuing to seek employment or self-employment in the United Kingdom.