
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the entitlement of nationals of the Republic of Croatia (“Croatian nationals”) to reside and work in the United Kingdom on the accession of that State to the European Union (“EU”) on 1st July 2013. They give effect to Annex V to the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9th December 2011. That Annex permits member States to derogate from various provisions of freedom of movement of persons provisions under EU law relating to access to their labour markets by Croatian nationals for a transitional period.

Part 1 of these Regulations (regulations 1 to 3) contains interpretative provisions. In particular, regulation 2 defines “accession State national subject to worker authorisation” and sets out a number of different classes of Croatian nationals who do not fall within that definition. Croatian nationals who are accession State nationals subject to worker authorisation require authorisation under these Regulations during the accession period (1st July 2013 to 30th June 2018) in order to be able to work in the United Kingdom.

Part 2 of these Regulations (regulations 4 to 7) make provision in relation to various existing legal instruments. Regulation 4 states that these Regulations derogate from the free movement of worker provisions in EU law. Regulation 5 provides that, under the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003, as amended) (“the EEA Regulations”), accession State nationals subject to worker authorisation cannot be treated as jobseekers and only have a right to reside in the United Kingdom by virtue of their worker status whilst they are duly authorised to do so. Regulation 6 makes transitional provision to take account of the fact that on 1st July 2013 Croatian nationals and their family members will generally fall to be treated for immigration purposes under the EEA Regulations rather than under the third country national immigration regime set out in the Immigration Act 1971 (“the 1971 Act”). Regulation 7 makes provision in relation to EEA registration certificates and residence cards issued under the EEA Regulations to certain Croatian nationals during the accession period.

Part 3 (regulations 8 to 10) sets out the requirements for accession State national subject to worker authorisation to obtain authorisation to work. Regulation 8 provides that an accession State national subject to worker authorisation is only authorised to work in the United Kingdom if he or she holds an accession worker authorisation document and is working in accordance with the conditions set out in the document. A passport or other travel document suitably endorsed under the 1971 Act before accession will count as such a document. In other cases, worker authorisation registration certificates issued under regulation 10 are required.

Regulations 9 and 10 set out procedure for applying for worker authorisation registration certificates and the issuing of worker authorisation registration certificates. Such certificates can only be issued where a person meets relevant requirements for certain authorised categories of employment. The relevant requirements are set out in the Statement of relevant requirements published by the Secretary of State. In relation to an authorised category of employment, the Statement sets out the relevant requirements which, subject to any necessary modifications, a person in that category of employment was obliged to meet under the immigration rules in force on 9th December 2011 in order to obtain entry clearance or leave to enter or remain in the United Kingdom.

Part 4 of these Regulations (regulations 11 to 19) deals with the penalties and offences for breaching the worker authorisation requirements in these Regulations.

Regulation 11 provides for the issuing of penalty notices where an employer employs an accession State national subject to worker authorisation in breach of these Regulations. Regulations 12 and 13 set out how an employer can object to, or appeal against, such a penalty notice

Changes to legislation: *There are currently no known outstanding effects for the The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. (See end of Document for details)*

respectively. Regulation 14 sets out an enforcement provision for the Secretary of State to recover a penalty imposed under regulation 11. Regulation 15 makes it an offence for an employer knowingly to employ an accession State national subject to worker authorisation in breach of the Regulations. Regulation 16 ensures that the Code of Practice issued in accordance with section 23 of the Immigration, Asylum and Nationality Act 2006 has effect in relation to related provisions under these Regulations. Regulation 16 makes it an offence for an accession State national subject to worker authorisation to work in breach of the Regulations. Regulation 17 makes it an offence for a person to obtain a worker authorisation registration certificate by deception. Regulation 18 applies various enforcement provisions in the 1971 Act for the purposes of offences under regulations 16 and 17.

The Schedule makes various consequential amendments to the EEA Regulations.

An Impact Assessment in respect of the Government's decision to apply transitional restrictions to Croatian nationals was published on the UK Border Agency's website on 18 October 2012 and can be found at <http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/october/39-croatia>.

Changes to legislation:

There are currently no known outstanding effects for the The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013.