

## STATUTORY INSTRUMENTS

# 2013 No. 1460

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

### PART 2

#### APPLICATION OF THE EEA REGULATIONS AND OTHER INSTRUMENTS

##### Derogation from provisions of European Union law relating to workers

4. Pursuant to Annex V of the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011, Regulations 5 and 7 to 10 derogate during the accession period from Article 45 of the Treaty on the Functioning of the European Union, Articles 1 to 6 of Regulation (EEC) No. 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community <sup>M1</sup> and Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the member States, amending Regulation (EEC) No. 1612/68, and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC<sup>M2</sup>.

##### Marginal Citations

- M1** O J L 257, 19.10.1968, p.2, and English Special Edition, Series I, Vol. 1968(II), p.475.  
**M2** O J L 158, 30.4.2004, p.77.

##### Right of residence of an accession State national subject to worker authorisation

[<sup>F1</sup>5. During the accession period, an accession State national subject to worker authorisation who is seeking employment in the United Kingdom shall not be treated as a jobseeker and shall be treated as a worker only in so far as it gives him a right to reside and only during a period in which he holds an accession worker authorisation document and is working in accordance with the conditions set out in that document.]

##### Textual Amendments

- F1** Reg. 5 substituted (6.4.2014) by The Accession of Croatia (Immigration and Worker Authorisation) (Amendment) Regulations 2014 (S.I. 2014/530), regs. 1(2), 2(4)

##### Transitional provisions to take account of the application of the EEA Regulations to Croatian nationals and their family members on 1st July 2013

6.—(1) Where, before 1st July 2013, any direction has been given for the removal of a Croatian national or the family member of such a national under paragraphs 8 to 10A of Schedule 2 (removal

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of persons refused leave to enter and illegal entrants)<sup>M3</sup> to the 1971 Act, section 10 (removal of certain persons unlawfully in the United Kingdom) of the 1999 Act or section 47 (removal: persons with statutorily extended leave) of the 2006 Act, that direction shall cease to have effect on that date.

(2) Where before 1st July 2013 the Secretary of State has made a deportation order against a Croatian national or the family member of such a national under section 5(1) (deportation orders) of the 1971 Act—

- (a) that order shall, on and after 1st July 2013, be treated as if it were a decision under regulation 19(3)(b) of the EEA Regulations; and
- (b) any appeal against that order, or against the refusal of the Secretary of State to revoke the deportation order, made before 1st July 2013 under section 63 (deportation orders)<sup>M4</sup> of the 1999 Act, or under section 82(2)(j) or (k) (right of appeal: general) of the 2002 Act shall, on or after that date, be treated as if it had been made under regulation 26 of the EEA Regulations.

(3) In this regulation—

- (a) “the 1999 Act” means the Immigration and Asylum Act 1999<sup>M5</sup>;
- (b) “the 2002 Act” means the Nationality, Immigration and Asylum Act 2002<sup>M6</sup>; and
- (c) any reference to the family member of a Croatian national is, in addition to the definition set out in regulation 1(2), a reference to a person who on 1st July 2013 acquires a right to reside in the United Kingdom under the EEA Regulations as the family member of a Croatian national.

#### **Marginal Citations**

**M3** Paragraphs 8 to 10 have been amended by section 10 of, and the Schedule to, the [Immigration Act 1988 \(c.14\)](#), [section 12](#) of, and Schedule 2 to, the [Asylum and Immigration Act 1996 \(c. 49\)](#) and section 114 of, and Schedule 7 to, the Nationality, Immigration and Asylum Act 2002; [paragraph 10A](#) was inserted by section 73 of the 2002 Act.

**M4** [Section 63](#) of the 1999 Act was repealed by section 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002 but continues to have effect in relation to appeals made before 1st April 2003.

**M5** [1999 c.33](#).

**M6** [2002 c.41](#).

#### **Issuing EEA registration certificates and residence cards**

7.—(1) During the accession period, regulation 6 of the EEA Regulations has effect as if, in paragraph (1), after “EEA national”, there were inserted “, except an accession State national subject to worker authorisation within the meaning of regulation 2 of the Croatian Regulations,” and after paragraph (1), there were inserted—

“(1A) In these Regulations, a “qualified person” also means a person who is an accession State national subject to worker authorisation within the meaning of regulation 2 of the Croatian Regulations and in the United Kingdom as—

- (a) a self-employed person;
- (b) a self-sufficient person;
- (c) a student; or
- (d) a highly skilled person who is seeking employment or is employed in the United Kingdom.

[<sup>F2</sup>(1B) In regulation 14(2), regulation 16(3) and (5) and regulation 17(1) and (4) a “qualified person” includes an accession State national subject to worker authorisation within the meaning of regulation 2 of the Croatian Regulations where that accession State national subject to worker authorisation has a right to reside.]

(1C) In these Regulations—

- (a) “the Croatian Regulations” means the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013; and
- (b) “highly skilled worker” has the meaning given in regulation 1 of the Croatian Regulations.”

(2) Subject to paragraph (6), an EEA registration certificate issued to a Croatian national during the accession period shall include a statement that the holder of the certificate has unconditional access to the United Kingdom labour market, unless that person is not an accession State national subject to worker authorisation solely by virtue of falling within paragraph (16) or (18) of regulation 2.

(3) A Croatian national who holds an EEA registration certificate that does not include a statement that he has unconditional access to the United Kingdom labour market may, during the accession period, submit the certificate to the Secretary of State for the inclusion of such a statement.

(4) The Secretary of State must re-issue a EEA certificate submitted to her under paragraph (3) with the inclusion of a statement that the holder has unconditional access to the United Kingdom labour market if she is satisfied that the holder—

- (a) is a qualified person within the meaning of paragraph (1A) of regulation 6 of the EEA Regulations as applied by paragraph (1); or
- (b) has ceased to be an accession State national subject to worker authorisation other than solely by virtue of falling within paragraph (16) or (18) of regulation 2.

(5) An EEA registration certificate issued to a Croatian national who is a student during the accession period shall include a statement that the holder of the certificate is a student who may work in the United Kingdom whilst a student in accordance with the condition set out in paragraph (17) of regulation 2 and who, on ceasing to be a student, may work during the period referred to in paragraph (18) of regulation 2, unless it includes a statement under paragraph (2) or (4) that the holder has unconditional access to the United Kingdom labour market.

(6) Where under paragraph (5) of regulation 16 of the EEA Regulations an EEA registration certificate is issued to a Croatian national extended family member<sup>F3</sup>, with the exception of an extended family member who is an unmarried partner (including a same sex partner),] of an accession State national subject to worker authorisation, the certificate must include a statement that the certificate does not confer a permission to work.

[<sup>F4</sup>(7) Where under paragraph (1) or (4) of regulation 17 of the EEA Regulations a residence card is issued to a family member or an extended family member of an accession State national subject to worker authorisation—

- (a) paragraph (6) of regulation 17 of the EEA Regulations shall not apply;
- (b) the duration of that card shall be twelve months from the date of issue; and
- (c) that card shall be entitled “Accession Residence Card”.]

#### Textual Amendments

- F2** Words in reg. 7(1) substituted (6.4.2014) by [The Accession of Croatia \(Immigration and Worker Authorisation\) \(Amendment\) Regulations 2014 \(S.I. 2014/530\)](#), regs. 1(2), **2(5)(a)**

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- F3** Words in reg. 7(6) inserted (6.4.2014) by The Accession of Croatia (Immigration and Worker Authorisation) (Amendment) Regulations 2014 (S.I. 2014/530), regs. 1(2), **2(5)(b)**
- F4** Reg. 7(7) inserted (6.4.2014) by The Accession of Croatia (Immigration and Worker Authorisation) (Amendment) Regulations 2014 (S.I. 2014/530), regs. 1(2), **2(5)(c)**

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