

2014 No. 2761

IMMIGRATION

**The Immigration (European Economic Area) (Amendment)
(No. 3) Regulations 2014**

<i>Made</i>	- - - -	<i>14th October 2014</i>
<i>Laid before Parliament</i>		<i>17th October 2014</i>
<i>Coming into force</i>	- -	<i>10th November 2014</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to rights of entry into, and residence in, the United Kingdom, in the exercise of powers conferred by that section, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Immigration (European Economic Area) (Amendment) (No. 3) Regulations 2014 and come into force on 10th November 2014.

Interpretation

2. In these Regulations—

“the 2006 Regulations” means the Immigration (European Economic Area) Regulations 2006(c);

“the relevant period” has the same meaning as in regulation 6(8) of the 2006 Regulations.

Amendments to the 2006 Regulations

3.—(1) Regulation 6 of the 2006 Regulations (“qualified person”) is amended as follows.

(2) In paragraphs (8)(b) and (9)(b), for “182” substitute “91”.

Transitional provisions

4.—(1) Any period after 31st December 2013 during which a person enjoyed a right to reside under the 2006 Regulations as a jobseeker is to be taken into account for the purposes of—

(a) determining the relevant period in relation to that person; and

(b) determining whether condition C in regulation 6(9) of the 2006 Regulations applies.

(a) S.I. 2000/1813.

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51), and by section 3(3) of, and Part 1 of Schedule 1 to, the European Union (Amendment) Act 2008 (c. 7).

(c) S.I. 2006/1003; relevant amending instruments are S.I. 2011/544, 2013/3032 and 2014/1451.

(2) But where calculation of the relevant period pursuant to paragraph (1)(a) would result in a negative balance, the relevant period is to be treated as though it were zero days.

Home Office
14th October 2014

James Brokenshire
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003), as amended, (“the 2006 Regulations”) in order to amend the transposition in the United Kingdom of Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ No. L 158, 30.4.04, p77) (“Directive 2004/38/EC”).

Regulation 3 of these Regulations amends regulation 6 of the 2006 Regulations to provide that the “relevant period” (as defined in regulation 6(8) of the 2006 Regulations) during which a person is entitled to enjoy a right to reside in the United Kingdom as a jobseeker is 91 days. When combined with the initial three months of residence conferred by regulation 13 of the 2006 Regulations, a jobseeker who entered the United Kingdom in order to seek employment will be able to enjoy a right to reside for six months, which is consistent with Case C-292/89 *Antonissen*. Upon the expiry of the relevant period, a jobseeker will be able to enjoy a further period of residence in the United Kingdom to the extent that “he can provide compelling evidence that he is continuing to seek employment and has a genuine chance of being engaged” (regulation 6(7) of the 2006 Regulations).

A jobseeker who is already resident in the United Kingdom will also be able to enjoy jobseeker status for 91 days before being subject to the “compelling evidence” test contained in regulation 6(6) of the 2006 Regulations.

There are no changes to the six month period during which a person is entitled to retain worker status pursuant to regulation 6 of the 2006 Regulations.

Regulation 4 contains transitional provision. Periods of time spent as a jobseeker after 31st December 2013, but prior to the coming into force of these Regulations, are to be taken into account for the purposes of determining the relevant period. However, where such calculation of the relevant period would result in a negative balance, it is to be taken to be zero. Such periods are also to be taken into consideration for the purposes of determining whether condition C in regulation 6(9) of the 2006 Regulations applies. Condition C is an additional criterion which has to be satisfied in order to enjoy a repeat period of residence as a jobseeker.

An impact assessment has not been produced for these Regulations as no impact on business, charities, voluntary bodies or the public sector is foreseen.

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