

## [<sup>F1</sup>SCHEDULE 6

Regulation 45

### TRANSITIONAL PROVISIONS

#### Textual Amendments

- F1** Regulations revoked (31.12.2020) by Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), s. 9(1), Sch. 1 para. 2(2) (with s. 4(2)); [S.I. 2020/1279, reg. 4\(c\)](#) (with savings and modifications in: [S.I. 2020/1209, regs. 3\(1\)\(2\), 4\(1\)-\(3\), 5-10](#) in relation to a relevant person for the purposes of final determination of applications during the grace period; [S.I. 2020/1210, reg. 2, Sch.](#) for the purpose of removing a person who is protected by the citizens' rights provisions; [S.I. 2020/1309, Sch. 3 paras. 1-6](#) in relation to deportation and exclusion orders, pending applications for documentation and existing appeal rights and appeals; and [S.I. 2020/1309, Sch. 4 paras. 1, 2, 4](#) in relation to access to benefits and services for persons who are members of the post-transition period group)

#### Modifications etc. (not altering text)

- C1** Sch. 6 continued (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\), regs. 1\(1\), 3\(1\)\(2\), 4\(1\)-\(3\), 10](#)

#### Interpretation

1.—(1) In this Schedule, “permission to be temporarily admitted in order to make submissions in person” means—

- (a) in relation to the 2006 Regulations, permission to be temporarily admitted under regulation 29AA(2) of the 2006 Regulations;
- (b) in relation to these Regulations, permission to be temporarily admitted under regulation 41(2).

(2) References to documents applied for or issued under the 2006 Regulations are to those documents as defined in regulation 2(1) of the 2006 Regulations.

#### Existing documents

2.—(1) An EEA family permit issued under regulation 12 of the 2006 Regulations before 1st February 2017 is to be treated as an EEA family permit issued under regulation 12 of these Regulations.

(2) Any document issued or treated as though issued under Part 3 of the 2006 Regulations is to be treated as though issued under Part 3 of these Regulations.

(3) Nothing in this paragraph extends the validity of any document issued under the 2006 Regulations beyond that document's original period of validity.

#### Verification of a right of residence

3. Where, before 1st February 2017, the Secretary of State had invited a person to provide evidence or information or to attend an interview under regulation 20B of the 2006 Regulations (verification of a right of residence), the Secretary of State's invitation is to be treated as though made under regulation 22 of these Regulations.

#### Outstanding applications

- 4.—(1) An application for—

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- (a) an EEA family permit;
- (b) a registration certificate;
- (c) a residence card;
- (d) a document certifying permanent residence;
- (e) a permanent residence card;
- (f) a derivative residence card; or
- (g) permission to be temporarily admitted in order to make submissions in person;

made but not determined before 1st February 2017 is to be treated as having been made under these Regulations.

(2) But regulation 21 and the words in parentheses in paragraph (b) of the definition of an EEA decision in regulation 2(1) are of no application to such an application made before 1st February 2017

### **Removal decisions, deportation orders and exclusion orders under the 2006 Regulations**

5.—(1) A decision to remove a person under regulation 19(3)(a), (b) or (c) of the 2006 Regulations must, upon the coming into force of Part 4 of these Regulations in its entirety, be treated as a decision to remove that person under regulation 23(6) (a), (b) or (c) of these Regulations, as the case may be.

(2) A deportation order made under regulation 24(3) of the 2006 Regulations must be treated as a deportation order made under regulation 32(3) of these Regulations.

(3) Until the coming into force of Part 4 in its entirety, a deportation order to which sub-paragraph (2) applies has effect until revoked by the Secretary of State.

(4) An exclusion order made under regulation 19(1B) of the 2006 Regulations must, upon the coming into force of Part 4 in its entirety, be treated as though having been made under regulation 23(5) of these Regulations.

(5) A person removed under regulation 19(3)(a) of the 2006 Regulations before 1st February 2017 is to be taken into account for the purposes of regulation 26(2).

(6) Where sub-paragraph (5) applies to a person, regulation 26 has effect as though the references to “12” were to “36”.

### **Certification under regulations 24AA and 29AA of the 2006 Regulations**

6.—(1) Where the Secretary of State certified under regulation 24AA of the 2006 Regulations (human rights considerations and interim orders to suspend removal) that a person’s removal from the United Kingdom would not be unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to the Human Rights Convention), the removal of that person is to be treated as though certified under regulation 33 of these Regulations.

(2) Where sub-paragraph (1) applies, certification treated as though given under regulation 33 does not amount to certification under that regulation for the purposes of paragraph 2(1)(b) of Schedule 2 to these Regulations (appeals to the First-tier Tribunal).

(3) Where the Secretary of State granted a person permission to be temporarily admitted to the United Kingdom to make submissions in person under regulation 29AA of the 2006 Regulations, that permission is to be treated as though given under regulation 41 of these Regulations.

(4) A person temporarily admitted to the United Kingdom in order to make submissions in person under regulation 29AA(6) of the 2006 Regulations is to be treated as though having been temporarily admitted under regulation 41(6) of these Regulations.

## Appeals to the Commission

7. Where the Secretary of State certified an EEA decision under regulation 28(2) of the 2006 Regulations (appeals to the Special Immigration Appeals Commission) before 1st February 2017, that EEA decision is to be treated as though having been certified under regulation 38(2) of these Regulations.

## Periods of residence prior to the coming into force of these Regulations

8.—(1) Any period of time during which an EEA national (“P”) resided in the United Kingdom in accordance with the conditions listed in sub-paragraphs (2) or (3) is to be taken into account for the purpose of calculating periods of residence in the United Kingdom in accordance with these Regulations.

(2) The condition in this paragraph is that P resided in, or was treated as though having resided in, the United Kingdom in accordance with—

- (a) the Immigration (European Economic Area) Regulations 2000(1); or
- (b) the 2006 Regulations.

(3) The condition in this paragraph is that P resided in the United Kingdom in circumstances where—

- (a) P was a national of a State which at that time was not an EEA State;
- (b) P had leave to enter or remain in the United Kingdom under the 1971 Act for the duration of P’s residence; and
- (c) P would have been residing in the United Kingdom in accordance with these Regulations, had P’s State of origin been an EEA State at that time, and had these Regulations been in force.

(4) Any period during which P resided in the United Kingdom in circumstances which met the conditions in sub-paragraph (2) or (3) is not to be taken into account for the purposes of sub-paragraph (1) where that residence was followed by a period of at least two continuous years during which—

- (a) P was absent from the United Kingdom; or
- (b) P’s residence in the United Kingdom—
  - (i) did not meet the conditions in sub-paragraph (2) or (3); or
  - (ii) was not otherwise in accordance with these Regulations.

## [<sup>F2</sup>Preservation of transitional provisions in relation to family members of dual nationals

9.—(1) Where—

- (a) the right of a family member (“F”) to be admitted to, or reside in, the United Kingdom pursuant to these Regulations depends on a person (“P”) being an EEA national;
- (b) P would be an EEA national if P was not also a British citizen; and
- (c) any of the criteria in sub-paragraphs (2), (3) and (4) is met;

P will, notwithstanding the effect of the definition of an EEA national in regulation 2, be regarded as an EEA national for the purpose of these Regulations.

(2) The criterion in this sub-paragraph is met where F was on 16th July 2012 a person with the right of permanent residence in the United Kingdom under the 2006 Regulations.

(3) Subject to sub-paragraph (5), the criterion in this sub-paragraph is met where F—

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(1) S.I. 2000/2326, amended by S.I. 2001/865, 2003/549, 3188, 2005/47 and 671.

*Changes to legislation: There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2016, SCHEDULE 6. (See end of Document for details)*

- (a) was on 16th July 2012 a person with a right of residence in the United Kingdom under the 2006 Regulations; and
- (b) on 16th October 2012—
  - (i) held a valid registration certificate or residence card issued under the 2006 Regulations;
  - (ii) had made an application under the 2006 Regulations for a registration certificate or residence card which had not been determined; or
  - (iii) had made an application under the 2006 Regulations for a registration certificate or residence card which had been refused and in respect of which an appeal under regulation 26 of the 2006 Regulations could be brought while the appellant was in the United Kingdom (excluding the possibility of an appeal out of time with permission) or was pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002, as it applied on 16th July 2012).
- (4) Subject to sub-paragraph (6), the criterion in this sub-paragraph is met where F—
  - (a) had, prior to 16th July 2012, applied for an EEA family permit pursuant to regulation 12 of the 2006 Regulations; or
  - (b) had applied for and been refused an EEA family permit and where, on 16th July 2012, an appeal under regulation 26 of the 2006 Regulations against that decision could be brought (excluding the possibility of an appeal out of time with permission) or was pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002 Act, as it applied on 16th July 2012).
- (5) The criterion in sub-paragraph (3) is not met in a case to which sub-paragraph (3)(b)(ii) or (iii) applies where no registration certificate or residence card was, in fact, issued pursuant to that application.
- (6) The criterion in sub-paragraph (4) is not met where—
  - (a) F was issued with an EEA family permit pursuant to an application made prior to 16th July 2012 but F had not been admitted to the United Kingdom within six months of the date on which it was issued; or
  - (b) no EEA family permit was, in fact, issued pursuant to that application.
- (7) Where met, the criteria in sub-paragraphs (2), (3) and (4) remain satisfied until the occurrence of the earliest of the following events—
  - (a) the date on which F ceases to be the family member of P; or
  - (b) the date on which F’s right of permanent residence is lost.
- (8) P will only continue to be regarded as an EEA national for the purpose of considering the position of F under these Regulations.]]

**Textual Amendments**

**F2** Sch. 6 para. 9 inserted (31.1.2017) by [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2017 \(S.I. 2017/1\)](#), reg. 1(2), **Sch. para. 5**

**Changes to legislation:**

There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2016, SCHEDULE 6.