

SCHEDULE 1

Regulation 27

CONSIDERATIONS OF PUBLIC POLICY, PUBLIC SECURITY AND THE FUNDAMENTAL INTERESTS OF SOCIETY ETC.

Considerations of public policy and public security

1. The EU Treaties do not impose a uniform scale of public policy or public security values: member States enjoy considerable discretion, acting within the parameters set by the EU Treaties, applied where relevant by the EEA agreement, to define their own standards of public policy and public security, for purposes tailored to their individual contexts, from time to time.

Application of paragraph 1 to the United Kingdom

2. An EEA national or the family member of an EEA national having extensive familial and societal links with persons of the same nationality or language does not amount to integration in the United Kingdom; a significant degree of wider cultural and societal integration must be present before a person may be regarded as integrated in the United Kingdom.

3. Where an EEA national or the family member of an EEA national has received a custodial sentence, or is a persistent offender, the longer the sentence, or the more numerous the convictions, the greater the likelihood that the individual's continued presence in the United Kingdom represents a genuine, present and sufficiently serious threat affecting of the fundamental interests of society.

4. Little weight is to be attached to the integration of an EEA national or the family member of an EEA national within the United Kingdom if the alleged integrating links were formed at or around the same time as—

- (a) the commission of a criminal offence;
- (b) an act otherwise affecting the fundamental interests of society;
- (c) the EEA national or family member of an EEA national was in custody.

5. The removal from the United Kingdom of an EEA national or the family member of an EEA national who is able to provide substantive evidence of not demonstrating a threat (for example, through demonstrating that the EEA national or the family member of an EEA national has successfully reformed or rehabilitated) is less likely to be proportionate.

6. It is consistent with public policy and public security requirements in the United Kingdom that EEA decisions may be taken in order to refuse, terminate or withdraw any right otherwise conferred by these Regulations in the case of abuse of rights or fraud, including—

- (a) entering, attempting to enter or assisting another person to enter or to attempt to enter, a marriage, civil partnership or durable partnership of convenience; or
- (b) fraudulently obtaining or attempting to obtain, or assisting another to obtain or to attempt to obtain, a right to reside under these Regulations.

The fundamental interests of society

7. For the purposes of these Regulations, the fundamental interests of society in the United Kingdom include—

- (a) preventing unlawful immigration and abuse of the immigration laws, and maintaining the integrity and effectiveness of the immigration control system (including under these Regulations) and of the Common Travel Area;
- (b) maintaining public order;
- (c) preventing social harm;

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- (d) preventing the evasion of taxes and duties;
- (e) protecting public services;
- (f) excluding or removing an EEA national or family member of an EEA national with a conviction (including where the conduct of that person is likely to cause, or has in fact caused, public offence) and maintaining public confidence in the ability of the relevant authorities to take such action;
- (g) tackling offences likely to cause harm to society where an immediate or direct victim may be difficult to identify but where there is wider societal harm (such as offences related to the misuse of drugs or crime with a cross-border dimension as mentioned in Article 83(1) of the Treaty on the Functioning of the European Union);
- (h) combating the effects of persistent offending (particularly in relation to offences, which if taken in isolation, may otherwise be unlikely to meet the requirements of regulation 27);
- (i) protecting the rights and freedoms of others, particularly from exploitation and trafficking;
- (j) protecting the public;
- (k) acting in the best interests of a child (including where doing so entails refusing a child admission to the United Kingdom, or otherwise taking an EEA decision against a child);
- (l) countering terrorism and extremism and protecting shared values.

SCHEDULE 2

Regulation 36

APPEALS TO THE FIRST-TIER TRIBUNAL

1. The following provisions of, or made under, the 2002 Act have effect in relation to an appeal under these Regulations to the First-tier Tribunal as if it were an appeal against a decision of the Secretary of State under section 82(1) of the 2002 Act (right of appeal to the Tribunal)—

section 84 (grounds of appeal)^{M1}, as though the sole permitted grounds of appeal were that the decision breaches the appellant's rights under the EU Treaties in respect of entry to or residence in the United Kingdom (“an EU ground of appeal”);

section 85 (matters to be considered)^{M2}, as though—

- (a) the references to a statement under section 120 of the 2002 Act^{M3} include, but are not limited to, a statement under that section as applied by paragraph 2; and
- (b) a “matter” in subsection (2) and a “new matter” in subsection (6) include a ground of appeal of a kind listed in section 84 of the 2002 Act and an EU ground of appeal;

section 86 (determination of appeal)^{M4};

section 105^{M5} and any regulations made under that section; and

section 106^{M6} and any rules made pursuant to that section.

Marginal Citations

M1 Section 84 was amended by the Immigration Act 2014 (“the 2014 Act”), section 15.

M2 Section 85 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 26(7) and Schedule 2, paragraphs 16 and 18, and the 2014 Act, section 15 and Schedule 9, paragraphs 30 and 34.

M3 Section 120 was amended by the 2014 Act, Schedule 9, paragraphs 30 and 55.

- M4** Section 86 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 26(7) and Schedule 2, paragraphs 16 and 18, and the 2014 Act, section 15 and Schedule 9, paragraphs 30 and 36.
- M5** Section 105 was amended by the 2014 Act, Schedule 9, paragraphs 30 and 48.
- M6** Section 106 was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 26(7), Schedule 2, paragraphs 16 and 21, and Schedule 4, the 2014 Act, Schedule 9, paragraphs 30 and 49(b), and S.I. 2010/21, Schedule 1, paragraphs 20 and 27.

2.—(1) Section 92(3) of the 2002 Act^{M7} has effect as though an additional basis upon which an appeal under section 82(1)(b) of that Act (human rights claim appeal) must be brought from outside the United Kingdom were that—

- (a) the claim to which that appeal relates arises from an EEA decision or the consequences of an EEA decision; and
- (b) the removal of that person from the United Kingdom has been certified under regulation 33 (human rights considerations and interim orders to suspend removal).

(2) Section 120 of the 2002 Act applies to a person (“P”) if an EEA decision has been taken or may be taken in respect of P and, accordingly, the Secretary of State or an immigration officer may by notice require a statement from P under subsection (2) of that section, and that notice has effect for the purpose of section 96(2) of the 2002 Act^{M8}.

(3) Where section 120 of the 2002 Act so applies, it has effect as though—

- (a) subsection (3) also provides that a statement under subsection (2) need not repeat reasons or grounds relating to the EEA decision under challenge previously advanced by P;
- (b) subsection (5) also applies where P does not have a right to reside.

(4) For the purposes of an appeal brought under section 82(1) of the 2002 Act, subsections (2) and (6)(a) of section 85 (matters to be considered) have effect as though section 84 included a ground of appeal that the decision appealed against breaches the appellant's right under the EU Treaties in respect of entry into or residence in the United Kingdom.

Marginal Citations

M7 Section 92(3) was amended by the 2014 Act, section 17.

M8 Section 96(2) was amended by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, section 30, and the 2014 Act, Schedule 9, paragraphs 30 and 41.

3. Tribunal Procedure Rules made under section 22 of the Tribunals, Courts and Enforcement Act 2007^{M9} have effect in relation to appeals under these Regulations.

Marginal Citations

M9 2007 c. 15.

Status: Point in time view as at 01/02/2017.

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

SCHEDULE 3

Regulation 43

EFFECT ON OTHER LEGISLATION

Leave under the 1971 Act

1. Where a person has leave to enter or remain under the 1971 Act which is subject to conditions and that person also has a right to reside under these Regulations, those conditions do not have effect for as long as the person has that right to reside.

Person not subject to restriction on the period for which they may remain

2.—(1) For the purposes of the 1971 Act and British Nationality Act 1981, a person who has a right of permanent residence under regulation 15 must be regarded as a person who is in the United Kingdom without being subject under the immigration laws to any restriction on the period for which the person may remain.

(2) But a qualified person, the family member of a qualified person, a person with a derivative right to reside and a family member who has retained the right of residence must not, by virtue of that status, be so regarded for those purposes.

Carriers' liability under the 1999 Act

3. For the purposes of satisfying a requirement to produce a visa under section 40(1)(b) of the 1999 Act (charges in respect of passenger without proper documents)^{M10}, “a visa of the required kind” includes an EEA family permit, a residence card, a derivative residence card, a qualifying EEA State residence card, or a permanent residence card required for admission under regulation 11(2), or permission to be temporarily admitted under regulation 41.

Marginal Citations

M10 Section 40(1)(b) was amended by the 2002 Act, Schedule 8, paragraphs 1 and 13.

SCHEDULE 4

Regulation 45

REVOCATIONS AND SAVINGS

PART 1

Table of Revocations

1.—(1) The Regulations listed in column 1 of the table are revoked.

(2) Sub-paragraph (1) is subject to the savings and transitory provisions in Part 2 of this Schedule and the transitional provisions in Schedule 6.

Table of revocations

(1)
Regulations revoked

(2)
References

The Immigration (European Economic Area) Regulations 2006	S.I. 2006/1003
The Immigration (European Economic Area) (Amendment) Regulations 2009	S.I. 2009/1117
The Immigration (European Economic Area) (Amendment) Regulations 2011	S.I. 2011/1247
The Immigration (European Economic Area) (Amendment) Regulations 2012	S.I. 2012/1547
The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2012	S.I. 2012/2560
The Immigration (European Economic Area) (Amendment) Regulations 2013	S.I. 2013/1391
The Immigration (Economic Area Regulations) (Amendment) (No. 2) Regulations 2013	S.I. 2013/3032
The Immigration (European Economic Area) (Amendment) Regulations 2014	S.I. 2014/1451
The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2014	S.I. 2014/1976
The Immigration (European Economic Area) (Amendment) (No. 3) Regulations 2014	S.I. 2014/2761
The Immigration (European Economic Area) (Amendment) Regulations 2015	S.I. 2015/694

PART 2

Savings and modifications

Accession member States: savings and modifications

2.—(1) Regulations 7A and 7B of the 2006 Regulations (arrangements for accession member States) continue to have effect in relation to any EEA national to whom they applied immediately before 1st February 2017.

(2) Where regulations 7A and 7B continue to have effect—

(a) they do so with the following modifications—

- (i) in paragraph (3) of regulation 7A and paragraph (4) of regulation 7B, as though the references to treating periods of involuntary unemployment duly recorded by the relevant employment office as periods of work for the purposes of regulation 5(7)(c) of the 2006 Regulations were to treating such periods of involuntary unemployment as periods of work for the purposes of regulation 6(2) of these Regulations; and
- (ii) as though the references to regulations 6(2) (persons who continue to be treated as a worker) and 15 (right of permanent residence) were references to those provisions in these Regulations; and

(b) these Regulations have effect save that regulation 17 (issue of registration certificate) has effect as though, in paragraph (9), for “regulation 24” there were substituted “regulations 7A and 7B of the 2006 Regulations and regulation 24 of these Regulations”.

Status: Point in time view as at 01/02/2017.

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

F1 SCHEDULE 5

Regulation 44

Textual Amendments

F1 Sch. 5 revoked (1.2.2017) by [The Immigration \(European Economic Area\) Regulations 2016 \(S.I. 2016/1052\)](#), regs. 1(2)(b), **46**

SCHEDULE 6

Regulation 45

TRANSITIONAL PROVISIONS

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—

- (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,

Status: Point in time view as at 01/02/2017.

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

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^{M11}; 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.

Marginal Citations

M11 [S.I. 2000/2326](#), amended by [S.I. 2001/865](#), 2003/549, 3188, 2005/47 and 671.

SCHEDULE 7

Regulation 45

CONSEQUENTIAL MODIFICATIONS

1.—(1) Unless the context otherwise requires—

- (a) any reference in any enactment to the 2006 Regulations, or a provision of the 2006 Regulations, has effect as though referring to these Regulations, or the corresponding provision of these Regulations, as the case may be^{M12};
- (b) but—

Status: Point in time view as at 01/02/2017.**Changes to legislation:** There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2016. (See end of Document for details)

- (i) any reference to a provision of the 2006 Regulations in column 1 of the table has effect as though it were a reference to the corresponding provision of these Regulations listed in column 2; and
- (ii) any reference to a provision of the 2006 Regulations with no corresponding provision in these Regulations ceases to have effect.

(2) Unless otherwise specified in the table, sub-divisions of the provisions of the 2006 Regulations listed in column 1 correspond to the equivalent sub-division in the corresponding provision of these Regulations.

(3) This paragraph is of no application where the reference to the 2006 Regulations had the effect of amending the 2006 Regulations. Additionally this paragraph has no application to amendments to the 2006 Regulations made under Schedule 5 of these Regulations.

Table of equivalences

<i>(1)</i> Provision in the 2006 Regulations	<i>(2)</i> Corresponding provision in these Regulations	<i>(3)</i> Description of provision
1	1(1) to (2)	Citation and commencement
2(3)	2(2)	General interpretation
3(3)	3(3)(c)	Continuity of residence
4(2)	4(2) and (3)	“Worker”, “self-employed person”, “self-sufficient person” and “student”
4(4)	4(2) and (4)	
6(2)(ba)	6(2)(c)	“Qualified person”
6(2)(c)	6(2)(d)	
6(2)(d)	6(2)(e)	
6(2A)	6(3)	
6(3)	6(4)	
6(4) and 6(8)	Relevant definitions in 6(1)	
6(9)	6(8)	
6(10)	6(9)	
6(11)	6(10)	
8(2)	8(2) and (7)	Extended family member
8(3)	8(3) and (7)	
9(1)	9(1) and (7)	Family members of British citizens
9(3)(a) to (c)	9(3)(a) to (e)	
9(4)	9(5)	
11(4)(ba)	11(4)(c)	Right of admission to the United Kingdom
11(4)(c)	11(4)(d)	
12(1A)	12(2)	Issue of EEA family permit

Status: Point in time view as at 01/02/2017.

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

12(1B)	12(3)(a)	
12(2)	12(4)	
12(3)	12(5)	
12(4)	12(6)	
12(5)	12(7)	
12(6)	12(8)	
14(5)	14(4)	Extended right of residence
15(1A)	15(2)	Right of permanent residence
15(2)	15(3)	
15(3)	15(4)	
15A	16	Derivative right to reside
15A(1)	16(1)	
15A(2)	16(2)	
15A(3)	16(3)	
15A(4)	16(4)	
15A(4A)	16(5)	
15A(5)	16(6)	
15A(6)	16(7)	
15A(7)	16(8)	
15A(7A)	16(9)	
15A(7B)	16(10)	
15A(8)	16(11)	
15A(9)	16(12)	
16	17	Issue of registration certificate
16(8)	17(9)	
17	18	Issue of residence card
17(6A)	18(7)	
18	19	Issue of a document certifying permanent residence and a permanent residence card
18(5)	19(4)(b)	
18(6)	19(5)	
18A	20	Issue of a derivative residence card
18A(5)	20(6)	
19	23	Exclusion and removal from the United Kingdom
19(1A)	23(2)	
19(1AB)	23(3)	

19(1B)	23(5)	
19(2)	23(4)	
19(3)	23(6)	
19(4)	23(7)(a)	
19(5)	23(7)(b)	
20	24	Refusal to issue or renew and revocation of residence documentation
20(1A)	24(2)	
20(2)	24(3)	
20(3)	24(4)	
20(4)	24(5)	
20(5)	24(6)	
20(6)	24(7)	
20A	25	Cancellation of a right of residence
20B	22	Verification of a right of residence
20B(8)	Relevant definition in 2(1)	
21	27	Decisions taken on public policy, public security and public health grounds
21(5)	27(5) and (8) and Schedule 1	
21A	28	Application of Part 4 to persons with a derivative right to reside
21A(1)	28(2)	
21A(2)	28(1)	
21A(3)(c)	28(2)(a)	
21A(3)(d)	28(2)(b)	
21A(3)(f)	28(2)(c)	
21A(3)(g)	28(2)(d)	
21B	26	Misuse of a right to reside
21B(1)	26(1) and (2)	
21B(2)	26(3)	
21B(3)	26(4)	
21B(4)	26(5)	
21B(5)	26(6)	
21B(6)	Relevant definition in 2(1)	
22	29	Person claiming right of admission
23	30	Person refused admission

Status: Point in time view as at 01/02/2017.

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

23A	31	Revocation of admission
24	32	Person subject to removal
24A	34	Revocation of deportation and exclusion orders
24A(1)	34(1) and (2)	
24A(2)	34(3)	
24A(3)	34(4)	
24A(4)	34(5)	
24A(5)	34(6)	
24AA	33	Human rights considerations and interim orders to suspend removal
25	35	Interpretation of Part 6
26	36	Appeal rights
26(2A)	36(3)	
26(3)	36(4)	
26(3A)	36(5)	
26(4)	36(8)	
26(5)	36(7)	
26(6)	36(9)	
26(7)	36(10)	
26(8)	36(11)	
27	37	Out of country appeals
27(1)(zaa)	37(1)(b)	
27(1)(aa)	37(1)(c)	
27(1)(b)	37(1)(d)	
27(1)(c)	37(1)(e)	
27(1)(ca)	37(1)(f)	
27(1)(d)	37(1)(g)	
28	38	Appeals to the Commission
28(8)	38(8) and (9)	
28A	39	National security: EEA Decisions
29	40	Effect of appeals to the First-tier Tribunal or Upper Tribunal
29(4A)	40(5)	
29(5)	40(6)	

29A	42	Alternative evidence of identity and nationality
29AA	41	Temporary admission in order to submit case in person
30	43	Effect on other legislation
31	45 and 46	Revocations etc.
Schedule 1	Schedule 2	Appeals to the First-tier Tribunal
Schedule 1, paragraph 1	Schedule 2, paragraph 2	
Schedule 1, paragraph 2	Schedule 2, paragraph 3	
Schedule 2	Schedule 3	Effect on other legislation
Schedule 2, paragraph 1(2)	Schedule 3, paragraph 1	
Schedule 2, paragraph 3	Schedule 3, paragraph 3	
Schedule 2, paragraph 4	Schedule 2, paragraph 2	

Marginal Citations

M12 The following regulations, and paragraphs of those regulations, in the 2006 Regulations have corresponding regulations and paragraphs in these Regulations: regulation 5 (“worker or self-employed person who has ceased activity”), regulation 7 (“family member”), regulation 10 (“family member who has retained the right of residence”), and regulation 13 (initial right of residence).

Status:

Point in time view as at 01/02/2017.

Changes to legislation:

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