

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”), in order to address deficiencies in retained EU law arising from withdrawal of the United Kingdom from the EU (in particular section 8(2)(c) and (d)). They also make consequential and saving provision under paragraph 21 of Schedule 7 to the 2018 Act.

These Regulations make amendments to legislation in the field of immigration and in particular amend the Immigration (European Economic Area) Regulations 2016 S.I 2016/1052 (“the 2016 Regulations”). In particular:

Regulation 2(4) omits regulation 9 of the 2016 Regulations to remove provision for the 2016 Regulations to apply to a family member or extended family member of a British citizen where that British citizen has exercised EU Treaty rights in an EEA State. Regulations 2(3) and (11) make provision consequential on that change. Regulation 4 sets out saving provisions so that the position of a person who qualified under this route prior to commencement of this amendment is protected. It also makes provision for the 2016 Regulations to continue to apply to family members and extended family members of British citizens living in an EEA State at the time that these provisions commence who return to the United Kingdom after that date.

Regulations 2(5), (10) and (12) have the effect that residence cards issued to third country national family members of EEA nationals by EEA States under articles 10 or 20 of Directive [2004/38/EC](#) will no longer be valid for admission to the UK. Further, EEA nationals and their family members who do not produce on arrival the required documentation (a valid EEA passport or national identity card for an EEA national; a valid passport and valid EEA family permit or UK-issued residence card for a third country national family member) will no longer be able to establish a right of admission by other means or be given an opportunity to be brought these documents.

Regulation 2(6) inserts a new regulation 15A into the 2016 Regulations. This amendment has the effect that a person who arrives in the United Kingdom after this amendment comes into force will not be able to acquire permanent residence under regulation 15 of the 2016 Regulations. But this does not apply to (a) a person outside of the United Kingdom on that date who was lawfully resident in the United Kingdom under the 2016 Regulations immediately before then or (b) a person who has leave to enter or remain granted by virtue of the EU Settlement Scheme.

Regulation 2(8) revokes the restriction on systemic verification of rights of residence under the 2016 Regulations.

Regulation 2(9) makes provision enabling an EEA decision to be taken on the ground that it is conducive to the public good. But a decision may not be taken on non-conducive grounds in respect of nationals from Iceland, Liechtenstein, Norway and Switzerland and their family members in relation to pre-commencement conduct if they were lawfully resident in the United Kingdom under the 2016 Regulations immediately before this amendment comes into force or have leave granted by virtue of the EU Settlement Scheme. A decision may not be taken on non-conducive grounds in relation to pre-commencement conduct in relation to any other EEA national or their family members if they were lawfully resident in the United Kingdom under the 2016 Regulations immediately before this amendment comes into force or have leave under

Changes to legislation: There are currently no known outstanding effects for the The Immigration (Amendment) (EU Exit) Regulations 2019 (expired—not approved). (See end of Document for details)

the EU Settlement Scheme, unless that person has been convicted of an offence and received a custodial sentence in relation to post-commencement conduct (“pre-commencement conduct” and “post-commencement conduct” are defined in new regulation 27A(8)). Regulation 3 makes comparable provision in relation to the Agreement establishing an Association between the European Economic Community and Turkey.
An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Immigration (Amendment) (EU Exit) Regulations 2019 (expired—not approved).