

SCHEDULES

SCHEDULE 4

Regulation 83

Saving provision in relation to access to benefits and services

1. In this Schedule—

- (a) “EEA Regulations 2016” means the Immigration (European Economic Area) Regulations 2016(1) as they had effect immediately before they were revoked;
- (b) “member of the post-transition period group” means a person who has limited leave to enter, or remain in, the United Kingdom granted by virtue of residence scheme immigration rules within the meaning given by section 17 of the European Union (Withdrawal Agreement) Act 2020.

2. For the purposes of the provisions specified in paragraph 3 the provisions of the EEA Regulations 2016 specified in paragraph 4 continue to have effect in relation to a person who is a member of the post-transition period group, with the specified modifications, despite the revocation of those Regulations by the 2020 Act.

3. The provisions specified in this paragraph are—

- (a) regulation 21AA (special cases: supplemental—persons from abroad) of the Income Support (General) Regulations 1987(2);
- (b) regulation 21AA (special cases: supplemental—persons from abroad) of the Income Support (General) Regulations (Northern Ireland) 1987(3);
- (c) regulation 85A (special cases: supplemental—persons from abroad) of the Jobseeker’s Allowance Regulations 1996(4);
- (d) regulation 85A (special cases: supplemental—persons from abroad) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(5);
- (e) article 3 (housing authority accommodation—England, Scotland and Northern Ireland), of the Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) Order 2000(6);
- (f) regulation 2 (persons not in Great Britain) of the State Pension Credit Regulations 2002(7);

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- (1) S.I. 2016/1052, relevant amending instruments are S.I. 2017/1, 2017/1242, 2018/201, 2019/468 and 2019/745. The amendments made by S.I. 2019/745 are not yet in force and are revoked by regulation 48 of these Regulations before they come into force. S.I. 2016/1052 is revoked by section 1 of, and paragraph 2(2) of Schedule 1 to, the Act.
 - (2) S.I. 1987/1967. Regulation 21AA was inserted by S.I. 2006/1026. Relevant amending instruments are S.I. 2012/2587, 2018/801, 2019/872 and 2020/683.
 - (3) S.R. 1987 No. 459. Regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178. Relevant amending instruments are S.R. 2006 No. 379, S.R. 2009 No. 68, S.R. 2012 No. 380, S.R. 2013 No. 246, S.R. 2014 No. 133, S.I. 2018/1085, S.R. 2019 No. 90 and S.R. 2020 No. 149.
 - (4) S.I. 1996/207. Regulation 85A was inserted by S.I. 2006/1026. Relevant amending instruments are S.I. 2012/2587, 2014/902, 2019/872 and 2020/683.
 - (5) S.R. 1996 No. 198. Regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178. Relevant amending instruments are S.R. 2006 No. 379, S.R. 2009 No. 68, S.R. 2012 No. 380, S.R. 2013 Nos. 246 and 308, S.R. 2014 Nos. 133 and 263, S.R. 2019 No. 90 and S.R. 2020 No. 149.
 - (6) S.I. 2000/706, relevant amending instruments are S.I. 2006/2521, 2008/1768, 2018/729 and 2020/825.
 - (7) S.I. 2002/1792. Regulation 2 was substituted by S.I. 2006/1026. Relevant amending instruments are S.I. 2012/1809 and 2587, 2016/1052, 2019/872 and 2020/683.

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- (g) regulation 2 (persons not in Northern Ireland) of the State Pension Credit Regulations (Northern Ireland) 2003**(8)**;
- (h) regulation 3 (circumstances in which a person is treated as not being in the United Kingdom) of the Tax Credits (Residence) Regulations 2003**(9)**;
- (i) regulation 7 (funeral payments: entitlement) of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005**(10)**;
- (j) regulation 7 (funeral payments: entitlement) of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005**(11)**;
- (k) regulation 10 (persons from abroad) of the Housing Benefit Regulations 2006**(12)**;
- (l) regulation 10 (persons from abroad) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**(13)**;
- (m) regulation 10 (persons from abroad) of the Housing Benefit Regulations (Northern Ireland) 2006**(14)**;
- (n) regulation 10 (persons from abroad) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006**(15)**;
- (o) regulations 23 (circumstances in which person treated as not being in Great Britain) and 27 (circumstances in which person treated as not being in Northern Ireland) of the Child Benefit (General) Regulations 2006**(16)**;
- (p) regulations 2 (interpretation), 4 (other persons from abroad who are ineligible for an allocation of housing accommodation) and 6 (other persons from abroad who are ineligible for housing assistance) of the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006**(17)**;
- (q) regulation 2 (interpretation), 3 (Persons from abroad who are ineligible for an allocation of housing accommodation) and 4 (Persons from abroad who are ineligible for housing assistance) of the Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006**(18)**;
- (r) regulation 70 (special cases: supplemental – persons from abroad) of the Employment and Support Allowance Regulations 2008**(19)**;
- (s) regulation 70 (special cases: supplemental – persons from abroad) of the Employment and Support Allowance Regulations (Northern Ireland) 2008**(20)**;

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- (8)** S.R. 2003 No. 28. Regulation 2 was substituted by regulation 5 of S.R. 2006 No. 178. Relevant amending instruments are S.R. 2006 No. 379, S.R. 2009 No. 68, S.R. 2012 No. 380, S.R. 2013 No. 246, S.R. 2014 No. 133, S.R. 2019 No. 90 and S.R. 2020 No. 149.
 - (9)** S.I. 2003/654, relevant amending instruments are S.I. 2004/1243, 2012/2612, 2019/364, 2019/867 and 2020/672.
 - (10)** S.I. 2005/306, relevant amending instruments are S.I. 2006/1026 and 2019/1060.
 - (11)** S.R. 2005 No. 506, relevant amending instruments are S.R. 2006 No. 178, S.R. 2008 No. 286, S.R. 2016 No. 236, S.R. 2017 Nos. 55 and 176 and S.I. 2019/1060.
 - (12)** S.I. 2006/213, relevant amending instruments are S.I. 2012/1809 and 2587, 2019/872 and 2020/683.
 - (13)** S.I. 2006/214, relevant amending instruments are S.I. 2012/1809 and 2587, 2019/872 and 2020/683.
 - (14)** S.R. 2006 No. 405, relevant amending instruments are S.R. 2008 No. 378, S.R. 2012 No. 380, S.R. 2013 No. 246, S.R. 2014 Nos. 98 and 133, S.R. 2019 No. 90 and S.R. 2020 No. 149.
 - (15)** S.R. 2006 No. 406, relevant amending instruments are S.R. 2012 No. 380, S.R. 2013 No. 246, S.R. 2014 No. 133, S.R. 2019 No. 90 and S.R. 2020 No. 149.
 - (16)** S.I. 2006/223, relevant amending instruments are S.I.s 2007/2150, 2012/2612, 2019/364, 2019/867 and 2020/672.
 - (17)** S.I. 2006/1294, relevant amending instruments are S.I. 2012/2588, S.I. 2019/861 and 2020/667.
 - (18)** S.R. 2006 No. 397, relevant amending instruments are S.R. 2009 No. 161, S.R. 2012 No. 429, S.R. 2013 No.189 and S.R. 2019 No.86.
 - (19)** S.I. 2008/794, relevant amending instruments are S.I.s 2012/1809 and 2587, 2014/902, 2019/872 and 2020/683.
 - (20)** S.R. 2008 No. 280, relevant amending instruments are S.R. 2009 No. 68, S.R. 2012 No. 380, S.R. 2013 No. 246, S.R. 2014 No. 133, S.R. 2019 No. 90 and S.R. 2020 No. 149.

- (t) regulation 16 (persons not entitled to a council tax reduction: persons treated as not being in Great Britain) of the Council Tax Reduction (Scotland) Regulations 2012(21);
 - (u) regulation 16 (persons not entitled to a council tax reduction: persons treated as not being in Great Britain) of the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(22);
 - (v) regulation 12 (persons treated as not being in Great Britain) of the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012(23);
 - (w) regulations 2 (interpretation) and 9 (persons treated as not being in Great Britain) of the Universal Credit Regulations 2013(24);
 - (x) regulation 28 (persons treated as not being in Great Britain) of the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013(25);
 - (y) paragraph 19 of the Schedule (class of persons excluded from this scheme: persons treated as not being in Great Britain) to the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013(26);
 - (z) regulations 2 (interpretation), 4 (other persons from abroad who are ineligible for an allocation of housing accommodation) and 6 (other persons from abroad who are ineligible for housing assistance) of the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014(27);
 - (aa) regulation 14C (family members of British citizens of Northern Ireland) of the National Health Service (Charges to Overseas Visitors) Regulations 2015(28); and
 - (bb) regulations 2 (interpretation) and 9 (persons treated as not being in Northern Ireland) of the Universal Credit Regulations (Northern Ireland) 2016(29).
4. The following provisions of the EEA Regulations 2016 are, with the modifications provided for, specified for the purposes of paragraph 2—
- (a) regulation 2 (general interpretation) with the following modifications—
 - (i) as if all instances of the words “or any other right conferred by the EU Treaties”—
 - (aa) in so far as they relate to things done on or after exit day but before commencement day, were a reference to a right conferred by the EU Treaties so far as they were applicable to and in the United Kingdom by virtue of Part 4 of the EU withdrawal agreement;
 - (bb) in so far as they relate to things done on or after commencement day, were omitted;
 - (ii) as if all instances of the words “or the EU Treaties”—
 - (aa) in so far as they relate to things done on or after exit day but before commencement day, were a reference to the EU Treaties so far as they were applicable to and in the United Kingdom by virtue of Part 4 of the EU withdrawal agreement;
 - (bb) in so far as they relate to things done on or after commencement day, were omitted;

(21) S.S.I. 2012/303. Relevant amendments are made by S.S.I. 2015/46.

(22) S.S.I. 2012/319. Relevant amendments are made by S.S.I. 2015/46.

(23) S.I. 2012/2885, relevant amending instruments are S.I. 2013/3181, 2014/3312 and 2020/23.

(24) S.I. 2013/376, relevant amending instruments are S.I. 2015/546, 2019/872 and 2020/683.

(25) S.I. 2013/3029 (W.301), relevant amending instruments are S.I. 2014/66 (W.6), S.I. 2015/44 (W.3) and S.I. 2020/16 (W.2).

(26) S.I. 2013/3035 (W.303), relevant amending instruments are S.I. 2014/66 (W.6), S.I. 2015/44 (W.3) and S.I. 2020/16 (W.2).

(27) S.I. 2014/2603 (W. 257), relevant amending instruments are S.I. 2017/698 (W. 164), S.I. 2019/1041 (W. 183) and S.I. 2019/1149 (W. 199).

(28) S.I. 2015/238. Relevant amendments are made by S.I. 2020/654.

(29) S.R. 2016 No. 216, relevant amending instruments re S.R. 2019 No. 89 and S.R. 2020 No. 130.

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- (iii) as if, at the end of the definition of “deportation order”, there were inserted “or under section 5(1) of the Immigration Act 1971”;
- (iv) as if, in the definition of “EEA State”, the words “, other than the United Kingdom” were omitted;
- (v) as if, at the end of the definition of “exclusion order”, there were inserted “or directions issued by the Secretary of State for a person not to be given entry to the United Kingdom on the grounds that the person’s exclusion is conducive to the public good”;
- (b) regulation 3 (continuity of residence) with the modification that, at the end of paragraph (3) (c), there were inserted “or the Immigration Acts”;
- (c) regulation 4 (“worker”, “self-employed person”, “self-sufficient person” and “student”) with the modification that, in paragraph (1)(b), “in accordance with” there were substituted “within the meaning of”;
- (d) regulation 5 (“worker or self-employed person who has ceased activity”);
- (e) regulation 6 (“qualified person”) with the following modifications—
 - (i) in paragraph (4C), “and having a genuine chance of being engaged” were omitted;
 - (ii) in paragraph (6), after “employment and” there were inserted “, when determining whether the person is a jobseeker,”;
 - (iii) in paragraph (7), after “continuing to seek employment and” there were inserted “, where that person is a jobseeker”;
- (f) regulation 7 (“family member”);
- (g) regulation 8 (“extended family member”) with the modification that paragraph (8) were omitted;
- (h) regulation 9 (family members and extended family members of British citizens) with the following modifications—
 - (i) in paragraph (1), at the end there were inserted “and BC is to be treated as satisfying any requirement to be a qualified person”;
 - (ii) sub-paragraph (a) of paragraph (3) were omitted;
 - (iii) paragraph (7) were omitted;
- (i) regulation 9A (dual national: national of an EEA State who acquires British citizenship);
- (j) regulation 10 (“family member who has retained the right of residence”) with the following modifications—
 - (i) in paragraph (2)(b), in so far as it applies to residence in the United Kingdom after commencement day, for “in accordance with these Regulations” there were substituted “lawfully”;
 - (ii) in paragraph (5)(a), “the initiation of proceedings for” were omitted;
- (k) regulation 13 (initial right of residence) with the modification that in paragraph (4), for the words from “where the Secretary of State” to “as the case may be,”, there were substituted “if that person is subject to a deportation order or exclusion order unless that order”;
- (l) regulation 14 (extended right of residence) with the modification that in paragraph (4), for the words from “where the Secretary of State” to “as the case may be,”, there were substituted “if that person is subject to a deportation order or exclusion order unless that order”;
- (m) regulation 15 (right of permanent residence) with the following modifications—

- (i) in so far as it applies to residence in the United Kingdom after commencement day , as if the EEA Regulations 2016 (with the modifications set out in this paragraph) had been in force at all relevant times and as if for the words “in accordance with these Regulations” in each place they occur there were substituted “lawfully”;
- (ii) in paragraph (4), for the words from “where the Secretary of State” to “as the case may be,”, there were substituted “if that person is subject to a deportation order or exclusion order unless that order”;
- (n) regulation 16 (derivative right to reside) with the following modifications—
 - (i) in paragraph (5)(c), for “another” there were substituted “an”;
 - (ii) in paragraph (12), for the words from “where the Secretary of State” to “or 31(1), unless that decision” there were substituted “if that person is subject to a deportation order or exclusion order unless that order”.

Continued application of section 7(1) of the Immigration Act 1988 for purposes of housing legislation

5. Notwithstanding the repeal of section 7 of the Immigration Act 1988 (exemption from requirement for leave to enter or remain for persons exercising EU Rights etc.)(**30**) by paragraph 1 of Schedule 1 to the 2020 Act, a member of the post-transition period group is not to be treated as “a person subject to immigration control” within—

- (a) the meaning of section 13 of the Asylum and Immigration Act 1996 (short title, interpretation, commencement and extent)(**31**) for the purposes of the exercise of the functions specified in paragraph 6; or
 - (b) the meaning of section 118 of the Immigration and Asylum Act 1999 (housing authority accommodation) for the purposes of the exercise of the functions specified in paragraph 7.
6. The functions specified in this paragraph are—
- (a) determining whether a person is ineligible for an allocation of housing accommodation in England under section 160ZA(2) (allocation only to eligible and qualifying persons: England)(**32**) or for housing assistance in England under section 185(2) of the Housing Act 1996 (persons from abroad not eligible for housing assistance)(**33**);
 - (b) determining whether a person is ineligible for an allocation of housing accommodation by a local housing authority in Wales under section 160A(3) of the Housing Act 1996 (allocation only to eligible persons: Wales); and
 - (c) determining whether a person is eligible for help under Chapter 2 of Part 2 of the Housing (Wales) Act 2014 (homelessness)(**34**).
7. The functions specified in this paragraph are—
- (a) determining whether a person is ineligible for an allocation of housing accommodation in Northern Ireland under Article 22A(1)(a) of the Housing (Northern Ireland) Order 1981 (allocation only to eligible persons)(**35**); and

(30) 1988. c. 14. Amended by S.I. 2011/1043 and 2019/745. The amendments made by S.I. 2019/745 are not yet in force and are revoked by regulation 47 of these Regulations before they come into force.

(31) 1996. c. 49.

(32) 1996. c. 52. Section 160ZA was inserted by section 146 of the Localism Act 2011 (c. 20) and amended by S.I. 2013/630.

(33) There have been amendments to section 185 but none are relevant.

(34) 2014 anaw 7. There have been amendments to Chapter 2 of Part 2, but none are relevant.

(35) S.I. 1981/156 (N.I. 3); Article 22A was inserted by Article 124 of S.I. 2003/412 (N.I. 2). There are amending instruments, but none are relevant.

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- (b) determining whether a person is ineligible for assistance under Part 2 of the Housing (Northern Ireland) Order 1988 under Article 7A(1)(a) of the Housing (Northern Ireland) Order 1988 (persons not eligible for housing assistance)(**36**).

(36) S.I. 1988/1990 (N.I. 23); Article 7A was inserted by Article 137 of S.I. 2003/412 (N.I. 2). There are amending instruments, but none are relevant.