

---

STATUTORY INSTRUMENTS

---

**2020 No. 1372**

**The Immigration (Citizens' Rights  
etc.) (EU Exit) Regulations 2020**

**PART 2**

**IMMIGRATION**

**Amendment of the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020**

**2.—(1)** The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the 2002 Act”, insert—

““the 1972 Order” means the Immigration (Control of Entry through Republic of Ireland) Order 1972;”;

(b) after the definition of “appellant”, insert—

““Appendix S2” means Appendix S2 Healthcare Visitor to the immigration rules<sup>(2)</sup>;”;

(c) after the definition of “frontier worker permit”, insert—

““healthcare entry clearance” means entry clearance granted by virtue of Appendix S2 for the purpose of acquiring leave to enter or remain in the United Kingdom by virtue of that Appendix<sup>(3)</sup>;

“healthcare leave”, in relation to a person (“P”), means leave to enter or remain in the United Kingdom granted to P by virtue of Appendix S2<sup>(4)</sup>;

“person with a healthcare right of entry” means a person who has the right to enter the United Kingdom by virtue of—

(a) Article 32(1)(b) of the withdrawal agreement,

(b) Article 31(1)(b) of the EEA EFTA separation agreement, or

(c) Article 26a(1)(b) of the Swiss citizens' rights agreement<sup>(5)</sup>.”.

---

(1) [S.I. 2020/61](#), amended by [S.I. 2020/1213](#).

(2) See section 17(5) of the European Union (Withdrawal Agreement) Act 2020 for the meaning of “immigration rules”. Appendix S2 Healthcare Visitor refers to “permission to stay” which is defined in paragraph 6 of the immigration rules as laid before Parliament on 22nd October 2020 (HC 813) to include leave to remain in the United Kingdom.

(3) See section 17(5) of the European Union (Withdrawal Agreement) Act 2020 for the meaning of “entry clearance”.

(4) Leave to enter by virtue of Appendix S2 includes leave to enter obtained by passing through an automated gate in accordance with Article 8B of the Immigration (Leave to Enter and Remain) Order 2000 [S.I. 2000/1161](#) as a person seeking to enter the United Kingdom as an S2 Healthcare Visitor under Appendix S2 and leave to enter as an Appendix S2 visitor granted orally in accordance with article 8 of [S.I. 2000/1161](#) as prospectively amended by [S.I. 2020/1353](#).

(5) See section 39(1) of the European Union (Withdrawal Agreement) Act 2020 for the meaning of “withdrawal agreement”, “EEA EFTA separation agreement” and “Swiss citizens' rights agreement”.

(3) In Part 2, in the heading after the heading to Chapter 1 of that Part after “frontier workers” insert “or persons with a healthcare right of entry”.

(4) In regulation 6 (right of appeal against decisions to make a deportation order in respect of a person other than a person claiming to be a frontier worker)—

- (a) in the heading, after “worker” insert “or a person with a healthcare right of entry”;
- (b) for paragraph (3) substitute—

“(3) But paragraph (2) does not apply to a person if the decision to remove that person was taken—

- (a) under regulation 23(6)(b) of the Immigration (European Economic Area) Regulations 2016<sup>(6)</sup> (“the 2016 Regulations”), where the decision to remove was taken before the revocation of the 2016 Regulations, or
- (b) otherwise, under regulation 23(6)(b) of the 2016 Regulations as it continues to have effect by virtue of the Citizens’ Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020<sup>(7)</sup> or the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020<sup>(8)</sup>.”.

(5) After regulation 6F (alternative evidence of identity and nationality)<sup>(9)</sup> insert—

*“Decisions relating to persons with a healthcare right of entry*

**Right of appeal against decisions relating to leave to enter or remain in the United Kingdom granted to or obtained by a person with a healthcare right of entry**

**6G.**—(1) A person (“P”) may appeal against a decision made on or after IP completion day—

- (a) to vary P’s healthcare leave, so that P does not have leave to enter or remain in the United Kingdom,
- (b) to cancel P’s healthcare leave,
- (c) where P applies on or after IP completion day for leave to enter or remain in the United Kingdom under Appendix S2, not to grant such leave to P, or
- (d) not to vary P’s leave to enter or remain in the United Kingdom granted by virtue of Appendix S2 in response to P’s relevant application.

(2) In this regulation, “relevant application” means an application for, or as the case may be, to vary, leave to enter or remain in the United Kingdom made under Appendix S2 on or after IP completion day.

**Right of appeal against decisions made in connection with healthcare entry clearance**

**6H.** A person may appeal against a decision made on or after IP completion day

- (a) where the person applies for healthcare entry clearance on or after IP completion day, to refuse their application,
- (b) to cancel or revoke their healthcare entry clearance,

<sup>(6)</sup> [SI 2016/1052](#), amended by [S.I 2017/1](#), [2017/1242](#), [2018/801](#), [2019/468](#), [2019/745](#) and [2019/1155](#). The amendments made by [S.I. 2019/745](#) are not yet in force and are revoked by regulation 48 of [S.I. 2020/1309](#) before they come into force. [S.I. 2016/1052](#) is revoked by section 1 of, and paragraph 2(2) of Schedule 1 to, the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.

<sup>(7)</sup> [S.I. 2020/1210](#).

<sup>(8)</sup> [S.I. 2020/1209](#).

<sup>(9)</sup> Regulation 6F was inserted by [S.I. 2020/2013](#).

- (c) where they have healthcare entry clearance, to refuse them leave to enter the United Kingdom under article 7(1) of the Immigration (Leave to Enter and Remain) Order 2000<sup>(10)</sup>, or
- (d) to cancel or vary the leave to enter the United Kingdom which they have by virtue of having arrived in the United Kingdom with healthcare entry clearance.

#### **Right of appeal against decision to vary leave under article 5 of the 1972 Order**

**6I.** A person (“P”) may appeal against a decision, made on or after IP completion day, to vary their leave to enter or remain in the United Kingdom if—

- (a) P is in the United Kingdom, and
- (b) Article 5 of the 1972 Order applied to P on their entry to the United Kingdom.

#### **Right of appeal against decisions to make a deportation order in respect of a person with a healthcare right of entry**

**6J.—(1)** A person to whom paragraph (2) applies may appeal against a decision, made on or after IP completion day, to make a deportation order under section 5(1) of the 1971 Act in respect of them.

(2) This paragraph applies to a person —

- (a) who has healthcare leave,
- (b) who is in the United Kingdom (whether or not the person has entered within the meaning of section 11(1) of the 1971 Act<sup>(11)</sup>) having arrived with healthcare entry clearance, or
- (c) to whom Article 5 of the 1972 Order applied on their entry to the United Kingdom.

(3) But paragraph (2) does not apply to a person if the decision to remove that person was taken—

- (a) under regulation 23(6)(b) of the Immigration (European Economic Area) Regulations 2016 (“the 2016 Regulations”), where the decision to remove is taken before the 2016 Regulations are revoked, or
- (b) otherwise, under regulation 23(6)(b) of the 2016 Regulations as it continues to have effect by virtue of the Citizens’ Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 or the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

(4) The reference in paragraph (2) to a person who has healthcare leave includes reference to a person who would have such leave but for the making of a deportation order under section 5(1) of the 1971 Act.”

(6) In regulation 8 (grounds of appeal)—

- (a) in paragraph (2)—
  - (i) in sub-paragraph (a), after “Title II” insert “, or Article 32(1)(b) of Title III,”;
  - (ii) in sub-paragraph (b), after “Title II” insert “, or Article 31(1)(b) of Title III,”;
  - (iii) in sub-paragraph (c), after “2” insert “, or Article 26a(1)(b),”;
- (b) in paragraph (3), after sub-paragraph (f) insert—

---

<sup>(10)</sup> S.I. 2000/1161, amended by S.I. 2010/957, 2013/1749, 2015/434, 2016/1132, 2019/298 and prospectively amended by S.I. 2020/1353.

<sup>(11)</sup> Section 11(1) was amended by paragraph 48 of Schedule 14 to the Immigration and Asylum Act 1999 (c. 33), section 62(8) of the Nationality, Immigration and Asylum Act 2002 (c. 14), and paragraph 15 of Schedule 10 to the Immigration Act 2016 (c. 19).

- “(g) where the decision is mentioned in regulation 6G(1)(a) or (1)(b) or 6H, it is not in accordance with the provision of the immigration rules by virtue of which it was made;
  - (h) where the decision is mentioned in regulation 6G(1)(c) or (1)(d), it is not made in accordance with Appendix S2;
  - (i) where the decision is mentioned in regulation 6I, it is not made in accordance with the provision of, or made under, the 1971 Act (including the immigration rules) by virtue of which it was made;
  - (j) where the decision is mentioned in regulation 6J, it is not in accordance with section 3(5) or (6) of the 1971 Act, or Appendix S2 (as the case may be).”.
- (7) In regulation 13 (pending appeal)—
- (a) in paragraph (3), for “these Regulations” substitute “regulations 3 to 6”;
  - (b) after paragraph (4B), insert—
    - “(4C) An appeal under regulations 6G to 6J is to be treated as abandoned if the appellant—
      - (a) is granted leave to enter or remain in the United Kingdom by virtue of Appendix S2, or
      - (b) obtains leave to enter the United Kingdom by passing through an automated gate in accordance with article 8B of the Immigration (Leave to Enter and Remain) Order 2000 as a person seeking to enter the United Kingdom as an S2 Healthcare Visitor under Appendix S2.
    - (4D) An appeal under regulation 6G(d) is also to be treated as abandoned if the appellant’s leave to enter or remain in the United Kingdom granted by virtue of Appendix S2 is varied, however that variation may have effect, so that the appellant has leave to enter or remain under Appendix S2.
    - (4E) An appeal under regulation 6I or 6J is also to be treated as abandoned if the Secretary of State agrees that Article 5 of the 1972 Order applies to the appellant.”.

### **Amendment of the Special Immigration Appeals Commission (Procedure) Rules 2003**

**3.—**(1) The Special Immigration Appeals Commission (Procedure) Rules 2003(**12**) are amended as follows.

(2) In rule 8 (time limit for appealing or for applying for review), in paragraph (4E), in the definition of “relevant rules” for—

(a) paragraph (a), substitute—

“(a) Appendix AR(EU) and Appendix AR (administrative review) to the immigration rules,”.

### **Amendment of the Tribunal Procedure (Upper Tribunal) Rules 2008**

**4.—**(1) The Tribunal Procedure (Upper Tribunal) Rules 2008(**13**) are amended as follows.

(2) In rule 17A (appeal treated as abandoned or finally determined in an asylum claim or immigration case), in paragraph (1A), for “13(3)” substitute “13”.

(12) [S.I. 2003/1034](#). Rule 8 was amended by [S.I. 2007/1285](#), [2013/2995](#), [2020/61](#) and [2020/1213](#).

(13) [S.I. 2008/2698](#), amended by [S.I. 2020/61](#); there are other amending instruments but none is relevant.

### **Amendment of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014**

5.—(1) The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014(14) are amended as follows.

(2) In rule 19 (notice of appeal), in paragraph (3E), in the definition of “relevant rules” for paragraph (a) substitute—

“(a) Appendix AR(EU) and Appendix AR (administrative review) to the immigration rules.”.

### **Amendment of the Immigration (Control of Entry through Republic of Ireland) Order 1972**

6.—(1) The Immigration (Control of Entry through Republic of Ireland) Order 1972 is amended as follows.

(2) In article 2(1) (interpretation)(15), at the appropriate places insert—

“exempt work activity” means an activity listed in Appendix Visitor: Permitted Activities to the immigration rules(16), except those listed in paragraphs PA 1, PA 2, and PA 16.1 to 18;

“occupation or employment” includes, in particular, the following activities in the United Kingdom (whether paid or unpaid)—

- (a) undertaking employment;
- (b) doing any work for an organisation or business;
- (c) establishing or running a business as a self-employed person;
- (d) undertaking a work placement or internship;
- (e) undertaking any direct selling to the public;
- (f) fulfilling a contract to provide goods or services;

“permitted paid engagement” means an engagement listed in paragraph V13.3. of Appendix V:Visitor to the immigration rules(17);

“permitted payment” means a payment of a type listed in paragraph V4.6.(a) to (f) of Appendix V:Visitor to the immigration rules, save that the words in paragraph V4.6.(f) “where the requirements of V13.1. to V13.3. are met” do not apply to payments permitted by this Order;

(3) In article 3 (persons excluded from section 1(3) of the Act)(18), after paragraph (1)(b)(vi) insert—

“(vii) he is a person who has at any time been refused admission to the United Kingdom under regulation 23(1), (3) or (4) of the Immigration (European Economic Area) Regulations 2016(19), and has not since then been granted admission to, or leave to enter or remain in, the United Kingdom;

(viii) he is a person in respect of whom the Secretary of State has made a removal decision under regulation 23(6)(a) or (c) of the Immigration (European Economic Area Regulations) 2016, and has not since then been granted admission to or leave to enter or remain in, the United Kingdom;

---

(14) [S.I. 2014/2604](#); relevant amending instruments are [S.I. 2020/61](#) and [2020/1213](#).

(15) Article 2(1) was amended by [S.I. 2014/2475](#) and is prospectively amended by [S.I. 2020/1309](#) which comes into force at the same time as this instrument.

(16) Appendix V: Visitor and Appendix Visitor: Permitted Activities were laid before Parliament on 22nd October 2020 (HC 813).

(17) Laid before Parliament on 22nd October 2020 (HC 813).

(18) Article 3(1)(b)(vi) is prospectively inserted by regulation 2 of [S.I. 2019/468](#) which comes into force at the same time as this instrument. Other amendments have been made to article 3(1)(b) by [S.I. 2014/2475](#).

(19) [S.I. 2016/1052](#), amended by [S.I. 2017/1](#), [2017/1242](#), and [2018/801](#). Regulation 23(1) and (6) is prospectively amended by regulation 43 of [S.I. 2019/745](#).

- (ix) he is a person who has at any time been refused admission to the United Kingdom under regulation 12(1)(a) or (c) of the Citizens' Rights (Frontier Worker) (EU Exit) Regulations 2020(20), and has not since then been granted admission to, or leave to enter or remain in, the United Kingdom;
- (x) he is a person in respect of whom the Secretary of State has made a removal decision under regulation 15(1)(a) or (c) of the Citizens' Rights (Frontier Worker) (EU Exit) Regulations 2020.”.
- (4) In article 4 (restrictions and conditions on entry through Ireland)(21)—
- (a) in paragraph (1), after “(2B)” insert “and (2C) and (2D)”;
- (b) after paragraph (2B)(22) insert—
- “(2C) This Article does not apply to any person to whom Article 5 applies, or applied at the time the person entered the United Kingdom.
- (2D) This Article does not apply to any person to whom Article 6 applies.”;
- (c) in paragraph (4)—
- (i) in sub-paragraph (a), for “three” substitute “six”;
- (ii) for sub-paragraph (b) (including the “and” after it) substitute—
- “(b) he must not engage in any occupation or employment except an exempt work activity, for which he may receive a permitted payment.”;
- (iii) omit sub-paragraph (c);
- (d) for paragraph (6B)(b) substitute—
- “(b) the person must not engage in any occupation or employment except an exempt work activity, for which the person may receive a permitted payment.”;
- (e) in paragraph (7)—
- (i) for “three” substitute “six”;
- (ii) for “seven days” substitute “two months”.
- (5) After Article 4 insert—
- “5.—(1) Subject to paragraph (3), this Article applies to any person who does not have the right of abode in the United Kingdom under section 2 of the Act, and who—
- (a) enters the United Kingdom on a local journey from the Republic of Ireland after having entered the Republic of Ireland—
- (i) on coming from a place outside the common travel area; or
- (ii) after leaving the United Kingdom whilst having limited leave to enter or remain there which has since expired; and
- (b) at the time of the person's entry to the United Kingdom and continuously whilst in the United Kingdom, is a S2 Healthcare Visitor; and
- (c) at the time of the person's entry to the United Kingdom, is in possession of—
- (i) in the case of a patient (“P”), a valid S2 certificate of entitlement to scheduled treatment; or

(20) Regulation 12 of the Citizens' Rights (Frontier Worker) (EU Exit) Regulations 2020 (S.I. 2020/1213) comes into force at the same time as this instrument.

(21) Article 4 has been amended by S.I. 1982/1028, 2000/1776, and 2014/2475. It is prospectively amended by regulation 24 of S.I. 2019/745. It is also prospectively amended by S.I. 2019/468 and 2020/1309 which come into force at the same time as this instrument.

(22) Article 4(2B) is prospectively inserted by regulation 28 of S.I. 2020/1213.

- (ii) in the case of an accompanying person, the documents set out in paragraph (2).
- (2) The documents referred to in paragraph (1)(c)(ii) are an original or copy of—
- (a) P’s valid S2 certificate of entitlement to scheduled treatment or evidence of P’s leave to enter or remain in the United Kingdom as a S2 Healthcare Visitor; and
  - (b) if P is an EEA citizen, P’s valid national identity card or passport; or if P is a not an EEA citizen, P’s passport.
- (3) This Article does not apply to any person who arrives in the United Kingdom with leave to enter or remain in the United Kingdom which is in force but which was given to the person before their arrival, or who requires leave to enter the United Kingdom by virtue of Article 3 or section 9(4) of the Act.
- (4) A person to whom this Article applies is subject to the restrictions in paragraph (5).
- (5) The restrictions referred to in this paragraph are—
- (a) the period for which the person may remain in the United Kingdom is not more than six months from the date on which the person entered the United Kingdom;
  - (b) the person must not engage in any occupation or employment.
- (6) In this Article—
- “accompanying person” means a person who is a S2 Healthcare Visitor who is accompanying a patient (“P”) to the United Kingdom at the same time as P’s entry into the United Kingdom, or who is joining P in the United Kingdom on a date after P’s entry into the United Kingdom, for the purpose of providing P with care or support during P’s course of planned healthcare treatment;
- “EEA citizen” means a person who is a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland who is not also a British citizen;
- “patient” means a person who is a S2 Healthcare Visitor who is undergoing or plans to undergo a course of planned healthcare treatment in the United Kingdom and who, before entry to the United Kingdom, has been granted a valid S2 certificate of entitlement to scheduled treatment;
- “S2 certificate of entitlement to scheduled treatment” has the same meaning as a portable document S2 issued under Regulation (EC) 883/2004(23);
- “S2 Healthcare Visitor” means a person with a right to enter the United Kingdom by virtue of and in accordance with—
- (i) Article 32(1)(b) of the EU withdrawal agreement;
  - (ii) Article 31(1)(b) of the EEA EFTA separation agreement; or
  - (iii) Article 26a(1)(b) of the Swiss citizens’ rights agreement;
- and references to the “EEA EFTA separation agreement” and the “Swiss citizens’ rights agreement” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act).

---

(23) Regulation (EC) No.883/2004 of the European Parliament and of the Council of 29 April 2004 on coordination of social security systems.



6.—(1) Subject to paragraph (2), this Article applies to any person who does not have the right of abode in the United Kingdom under section 2 of the Act and is not an Irish citizen, and who—

- (a) enters the United Kingdom on a local journey from the Republic of Ireland after having entered the Republic of Ireland—
  - (i) on coming from a place outside the common travel area; or
  - (ii) after leaving the United Kingdom whilst having limited leave to enter or remain there which has since expired; and
- (b) at the time of the person’s entry to the United Kingdom, intends, and has a previously arranged invitation, to undertake a permitted paid engagement in the United Kingdom.

(2) This Article does not apply to any person who arrives in the United Kingdom with leave to enter or remain in the United Kingdom which is in force but which was given to the person before their arrival, or who requires leave to enter the United Kingdom by virtue of Article 3 or section 9(4) of the Act.

(3) Subject to paragraph (5), a person to whom this Article applies is subject to the restrictions and conditions in paragraph (4).

(4) The restrictions and conditions referred to in this paragraph are—

- (a) the period for which the person may remain in the United Kingdom is not more than one month from the date on which the person entered the United Kingdom; and
- (b) the person must not engage in any occupation or employment except an exempt work activity or the permitted paid engagement referred to in paragraph (1)(b); and
- (c) where the person is undertaking an exempt work activity or the permitted paid engagement, the person may receive a permitted payment.

(5) If a person to whom this Article has applied at any time, leaves the United Kingdom but does not leave the common travel area, on the person’s subsequent entry to the United Kingdom the restrictions and conditions in paragraph (6) apply to them.

(6) The restrictions and the conditions referred to in this paragraph are—

- (a) the period for which the person may remain in the United Kingdom is not more than seven days from the date on which the person entered the United Kingdom; and
- (b) the person must not engage in any occupation or employment except an exempt work activity or any permitted paid engagement; and
- (c) where the person is undertaking an exempt work activity or permitted paid engagement, the person may receive a permitted payment.”.

### **Amendment of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020**

7.—(1) The Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020<sup>(24)</sup> are amended as follows.

(2) In regulation 4 (retained worker or self-employed person status), for paragraph (5) substitute—

“(5) A person satisfies this paragraph where the person has—

<sup>(24)</sup> S.I. 2020/1213.



(a) provided evidence that they continue to seek employment or self-employment in the United Kingdom; and

(b) registered as a jobseeker with the relevant employment office.”.

(3) In regulation 24 (amendment of the Immigration (Citizens’ Rights Appeals) Regulations 2020), in paragraph (5), in the new regulation 6E to be inserted by that paragraph, for paragraph (2) substitute—

“(2) But paragraph (1) does not apply to a person if the decision to remove that person was taken—

(a) under regulation 23(6)(b) of the Immigration (European Economic Area) Regulations 2016<sup>(25)</sup> (“the 2016 Regulations”), where the decision to remove was taken before the revocation of the 2016 Regulations, or

(b) otherwise, under regulation 23(6)(b) of the 2016 Regulations as it continues to have effect by virtue of the Citizens’ Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 or the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.”.

---

(25) [SI 2016/1052](#), amended by [S.I 2017/1](#), [2017/1242](#), [2018/801](#), [2019/468](#), [2019/745](#) and [2019/1155](#). The amendments made by [S.I. 2019/745](#) are not yet in force and are revoked by regulation 48 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 before they come into force. [S.I. 2016/1052](#) is revoked by section 1 of, and paragraph 2(2) of Schedule 1 to, the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.