

SCHEDULE 2

Persons not required to comply with regulation 3 or 4

PART 1

Persons not required to comply with regulation 3 and regulation 4

- 1.—(1) A person (“P”) who is—
- (a) a member of a diplomatic mission in the United Kingdom,
 - (b) a member of a consular post in the United Kingdom,
 - (c) an officer or servant of an international organisation,
 - (d) employed by an international organisation as an expert or on a mission,
 - (e) a representative to an international organisation,
 - (f) a representative at an international or United Kingdom conference who is granted privileges and immunities in the United Kingdom,
 - (g) a member of the official staff of a representative to an international organisation, or of a person falling within paragraph (f),
 - (h) described in paragraph (a) or (b) who is passing through the United Kingdom to commence or continue their functions at a diplomatic mission or consular post in another country or territory, or to return to the country of their nationality,
 - (i) a representative of a foreign country or territory travelling to the United Kingdom to conduct official business with the United Kingdom,
 - (j) a representative of the government of a British overseas territory,
 - (k) a diplomatic courier or a consular courier,
 - (l) a member of the family forming part of the household of a person falling within any of paragraphs (a) to (k),
- (2) The conditions referred to in regulation 4(13)(a)(i) (persons who are not required to comply with regulation 4) are that—
- (a) the relevant head of the mission, consular post, international organisation, or conference, office representing a foreign territory in the United Kingdom or a Governor of a British overseas territory (as the case may be), or a person acting on their authority, confirms in writing to the Foreign and Commonwealth Office that—
 - (i) P is required to undertake work which is essential to the functioning of the mission, consular post, international organisation, conference, or office, or to undertake work which is essential to the foreign country represented by the mission or consular post, the foreign territory represented by the office or the British overseas territory and
 - (ii) that work cannot be undertaken whilst P is complying with regulation 4, and
 - (b) prior to P’s arrival in the United Kingdom the Foreign and Commonwealth Office—
 - (i) has confirmed in writing to the person giving the confirmation referred to in paragraph (a) that it has received that confirmation, and
 - (ii) where P is a representative of a foreign country or territory, has then confirmed in writing to the person giving the confirmation referred to in paragraph (a) that P is travelling to the United Kingdom to conduct official business with the United Kingdom and is not required to comply with regulation 4.

Status: This is the original version (as it was originally made).

(3) For the purposes of this paragraph—

- (a) “consular courier” means a person who has been provided by the State on behalf of which they are acting with an official document confirming their status as a consular courier in accordance with Article 35(5) of the Vienna Convention on Consular Relations of 1963,
- (b) “consular post” means any consulate-general, consulate, vice-consulate or consular agency,
- (c) “diplomatic courier” means a person who has been provided by the State on behalf of which they are acting with an official document confirming their status as a diplomatic courier in accordance with Article 27(5) of the Vienna Convention on Diplomatic Relations of 1961,
- (d) “international organisation” means an international organisation accorded privileges and immunities in the United Kingdom,
- (e) “member of a consular post” means a “consular officer”, “consular employee” and “member of the service staff” as defined in Schedule 1 to the Consular Relations Act 1968(1), and “head of consular post” has the meaning given in that Schedule,
- (f) “member of a diplomatic mission” means the “head of the mission”, “members of the diplomatic staff”, “members of the administrative and technical staff” and “members of the service staff” as defined in Schedule 1 to the Diplomatic Privileges Act 1964(2).

(4) This paragraph is without prejudice to any immunity from jurisdiction or inviolability which is accorded to any person described in sub-paragraph (1) under the law of England and Wales apart from these Regulations.

2.—(1) A Crown servant or government contractor where they are—

- (a) required to undertake essential government work related to the United Kingdom border in the United Kingdom within 14 days of their arrival, or
- (b) undertaking essential government work related to the United Kingdom border outside of the United Kingdom but—
 - (i) are required to return to the United Kingdom temporarily,
 - (ii) will thereafter depart to undertake essential government work related to the United Kingdom border outside of the United Kingdom.

(2) For the purposes of sub-paragraph (1) and paragraph 3—

- (a) “Crown servant” has the meaning given in section 12(1)(a) to (e) of the Official Secrets Act 1989(3),
- (b) “essential government work” means work which has been designated as such by the relevant Department or employer,
- (c) “government contractor” has the meaning given in section 12(2) of the Official Secrets Act 1989.

3.—(1) A person who is a Crown servant, a government contractor, or a member of a visiting force, who—

(1) 1968 c. 18. There are amendments but none is relevant.

(2) 1964 c. 81. There are amendments but none is relevant.

(3) 1989 c. 6. Section 12 was amended by paragraph 22 of Schedule 10 to the Reserve Forces Act 1996 (c. 14), by paragraph 30 of Schedule 12 to the Government of Wales Act 1998 (c. 38), by paragraph 26 of Schedule 8 to the Scotland Act 1998 (c. 46), by paragraph 9(3) of Schedule 13 to the Northern Ireland Act 1998 (c. 47), by paragraph 9 of Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32), by paragraph 6 of Schedule 14 to the Energy Act 2004 (c. 20), by paragraph 58 of Schedule 4 to the Serious Organised Crime and Police Act 2005, by paragraph 34 of Schedule 10, and paragraph 1 of Schedule 12, to the Government of Wales Act 2006 (c. 32) and by paragraph 36 of Schedule 8 to the Crime and Courts Act 2013 (c. 22).

- (a) is required to undertake work necessary to the delivery of essential defence activities, or
 - (b) has undertaken a continuous period of at least 14 days immediately preceding their arrival aboard a vessel operated by or in support of Her Majesty’s Naval Service and that vessel has not taken on any persons or docked in any port outside of the common travel area for a period of at least 14 days immediately preceding its arrival in the United Kingdom.
- (2) For the purposes of sub-paragraph (1)—
- (a) “defence” has the meaning given in section 2(4) of the Official Secrets Act 1989,
 - (b) “visiting force” means a visiting force within the meaning given in section 12(1) of the Visiting Forces Act 1952(4), where that force is from a country which is listed under section 1(1)(a), or designated under section 1(1)(b) or 1(2), of the Visiting Forces Act 1952(5), or which is a country member of the North Atlantic Treaty Organisation.
4. An official of a foreign Government, required to travel to the United Kingdom to undertake essential border security duties, or a contractor directly supporting these essential border security duties where—
- (a) they are in possession of a written notice signed by a senior member of their foreign Government confirming that they are required to undertake essential border security duties in the United Kingdom within 14 days of arrival and that that work cannot be undertaken whilst the person is complying with regulation 4, or
 - (b) their deployment is pursuant to a standing bilateral or multilateral agreement with Her Majesty’s Government on the operation of the Border controls within the United Kingdom.

(4) The definition of “visiting force” in section 12(1) was amended by paragraph 14(1) of Schedule 15 to the Criminal Justice Act 1988 (c. 33).

(5) 1952 c. 67. Section 1(a) has been amended numerous, times. The countries listed are: Canada, Australia, New Zealand, South Africa, India, Pakistan, Ceylon, Ghana, Malaysia, the Republic of Cyprus, Nigeria, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda, Kenya, Zanzibar, Malawi, Zambia, Malta, The Gambia, Guyana, Botswana, Lesotho, Singapore, Barbados, Mauritius, Swaziland, Tonga, Fiji, the Bahamas, Bangladesh, Solomon Islands, Tuvalu, Dominica, St. Lucia, Kiribati, St Vincent and the Grenadines, Papua New Guinea, Western Samoa and Nauru, Zimbabwe, the New Hebrides, Belize, Antigua and Barbuda, Saint Christopher and Nevis, Brunei, Maldives, Namibia, Cameroon and Mozambique.