
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force provisions of the Nationality and Borders Act 2022 (c. 36) (“the 2022 Act”). They are the fifth commencement regulations to be made under the 2022 Act. These Regulations also contain transitional provisions in relation to certain provisions of the 2022 Act being brought into force by these Regulations.

Regulation 2 of these Regulations brings sections 49(5) (substitution of section 94(7) of the Immigration and Asylum Act 1999 (c. 33), 50 (persons subject to immigration control: referral or assessment by local authority etc), so far as not already in force, and 51 (persons subject to immigration control: assessment for immigration purposes) into force on 31 March 2023. Section 50 confers a power on a designated person (defined in section 49(2) of the 2022 Act) to conduct age assessments on age-disputed persons (defined in section 49(1) of the 2022 Act) upon referral from a local authority in England, Wales and Scotland or a Health and Social Care Trust in Northern Ireland. Section 51 confers a power on a designated person to conduct age assessments on age-disputed persons for the purposes of deciding whether or how the Secretary of State should exercise any immigration functions in relation to the person.

Regulation 3 of these Regulations brings section 43 (working in United Kingdom waters: arrival and entry) of the 2022 Act, so far as not already in force, and Schedule 6 (working in United Kingdom waters: consequential and related amendments) to that Act, so far as not already in force, into force on 12 April 2023. Section 43 and Schedule 6 clarify the legal framework around the requirement that individuals working in United Kingdom waters need permission to do so.

Sections 50(7) and 51(3) of the 2022 Act cross refer to section 54 (appeals relating to age assessments) and section 56 (new information following age assessment or appeal) of that Act, which are not yet in force and are not being brought into force by these Regulations. Regulations 4 and 5 make transitional provision so that, pending the coming into force of sections 54 and 56, sections 50(7) and 51(3) are to be read as omitting the reference to section 54 (judicial review will continue to be available) and as ensuring that a designated person is not prevented from carrying out a further age assessment on an age-disputed person if they become aware of new information in relation to that person’s age which is significant new evidence.