



IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU EXIT) (CONSEQUENTIAL PROVISIONS) REGULATIONS 2020

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Statutory Document No. 2020/0573



Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020

IMMIGRATION AND SOCIAL SECURITY CO- ORDINATION (EU EXIT) (CONSEQUENTIAL PROVISIONS) REGULATIONS 2020¹

Laid before Tynwald: 19 January 2021
Coming into Operation: in accordance with regulation 2

The Minister for the Cabinet Office makes the following Regulations under section 5 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020¹ (of Parliament) as it has effect in the Island².

PART 1 – INTRODUCTORY

1 Title

These Regulations are the Immigration and Social Security Co-ordination (EU Exit) (Consequential Provisions) Regulations 2020.

2 Commencement

These Regulations come into operation on IP completion day³ except for –

- (a) regulation 5(3) and (4), which come into operation on 1 July 2021;
- (b) regulations 13 and 17, which come into operation immediately before IP completion day;
- (c) regulation 14, which comes into operation on the later of –
 - (i) immediately after IP completion day; or
 - (ii) when the Immigration (Citizens’ Rights Appeals) (EU Exit) (Application) Regulations 2020⁴ come into operation; and
- (d) regulation 15, which comes into operation on the later of –
 - (i) immediately after IP completion day; or

¹ 2020 c.20

² The Act is extended to the Island with modifications by Order in Council (see S.I. 2020/1576).

³ IP completion day is defined in Schedule 1 to the Interpretation Act 2015.

⁴ SD 2020/0510

- (ii) when the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) (Application) Regulations 2020⁵ come into operation

3 Interpretation – General

- (1) In these Regulations –
“**the 2020 Act**” means the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020;
“**commencement day**” means the time and day on which the Immigration (European Economic Area) Regulations 2019 are revoked for all purposes.
- (2) Unless the context otherwise requires or it is expressly provided, a reference in these Regulations to a provision of any legislation of the United Kingdom which is applied or extended to the Island with or without modifications shall be construed as a reference to that legislation as it has effect in the Island.

PART 2 – IMMIGRATION

DIVISION 1 – AMENDMENT AND SAVINGS OF PRIMARY LEGISLATION

4 Amendment and saving of the Immigration Act 1971

- (1) The Immigration Act 1971⁶ is amended as follows.
- (2) In section 9 (further provisions as to common travel area), in subsection (4)(a) –
 - (a) omit “written”;
 - (b) omit “as being in the interests of national security”.
- (3) In section 25 (assisting unlawful immigration to member State) –
 - (a) in subsection (1), in both places it occurs, for “a citizen of the European Union” substitute “a national of the United Kingdom”;
 - (b) in subsection (7), omit paragraph (b) (and the “and” before it).
- (4) Section 25B (assisting entry to the Isle of Man in breach of deportation or exclusion order) is omitted.
- (5) In Schedule 4 (integration with Isle of Man law of immigration law of the United Kingdom and of the Channel Islands), in paragraph 3 (deportation) –

⁵ SD 2020/0508

⁶ 1971 c.77 as it is extended to the Island with modifications (see the Immigration (Isle of Man) Order 2008 [S.I. 2008/680] as amended).

- (a) in sub-paragraph (2)—
- (i) after paragraph (a) insert—
 - 3A(aa) an Irish citizen; 3A;
 - (ii) omit paragraphs (b) and (c) (and the “or” after paragraph (c));
 - (iii) at the appropriate place, insert—
 - 3A(ca) a relevant person (see paragraph 3A); or 3A;
 - (iv) in paragraph (d), for “such a citizen nor an EEA national” substitute 3A a British citizen nor an Irish citizen 3A;
- (b) in sub-paragraph (4), for “(b), (c)” substitute 3A (aa), (ca) 3A.
- (6) In that Schedule, after paragraph 3, insert —
- 3A(1) For the purposes of paragraph 3, a person is a “relevant person” —
- (a) if the person is in the Isle of Man (whether or not they have entered within the meaning of section 11(1)) having arrived with entry clearance granted by virtue of relevant entry clearance immigration rules,
 - (b) if the person has leave to enter or remain in the Isle of Man granted by virtue of residence scheme immigration rules,
 - (c) if the person may be granted leave to enter or remain in the Isle of Man as a person who has a right to enter the United Kingdom by virtue of —
 - (i) Article 32(1)(b) of the EU withdrawal agreement,
 - (ii) Article 31(1)(b) of the EEA EFTA separation agreement, or
 - (iii) Article 26(a)(1)(b) of the Swiss citizens’ rights agreement,whether or not the person has been granted such leave.
- (2) In this paragraph —
- “**EEA EFTA separation agreement**” and “**Swiss citizens’ rights agreement**” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020⁷ (see section 39(1) of that Act);
- “**relevant entry clearance immigration rules**” means any immigration rules which are identified in the immigration rules as having effect in connection with the granting of entry clearance for the purpose of acquiring leave to enter or remain in the Isle of Man by virtue of residence scheme immigration rules;
- “**residence scheme immigration rules**” means —

⁷ 2020 c.1

- (a) Appendix EU to the immigration rules except those rules, or changes to that Appendix, which are identified in the immigration rules as not having effect in connection with the residence scheme that operates in connection with the withdrawal of the United Kingdom from the EU; and
 - (b) any other immigration rules which are identified in the immigration rules as having effect in connection with the withdrawal of the United Kingdom from the EU. **22**.
- (7) Notwithstanding its repeal by paragraph (4), section 25B of the Immigration Act 1971 continues to apply where an order is in operation excluding an individual from the Isle of Man and the order —
- (a) was made before commencement day by virtue of the Immigration (European Economic Area) Regulations 2019⁸ and continues in operation under paragraph 2 of Schedule 2 to these Regulations; or
 - (b) is made on or after commencement day by virtue of those 2019 Regulations as they continue to have effect by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020⁹.
- (8) As a consequence of the earlier provisions of this regulation, the Immigration Act 1971 is further amended as follows —
- (a) in the following provisions, for “, 25A or 25B” substitute **23** or 25A **24**—
 - (i) section 25C(1);
 - (ii) section 25C(5)(b);
 - (iii) section 25D(1);
 - (iv) section 28A(3)(a);
 - (v) section 28C(1);
 - (vi) section 28F (in the heading);
 - (b) in section 25C omit subsection (11);
 - (c) in section 28D(4) omit “25B,”.

5 Amendment and saving of the Immigration and Asylum Act 1999

- (1) The Immigration and Asylum Act 1999¹⁰ is amended as follows.
- (2) In section 10 (removal of persons unlawfully in the Isle of Man), in subsection (5), for the words from “neither” to the end substitute **25** none of the following —

⁸ SD 2019/0132

⁹ As applied to the Island with modifications by the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) (Application) Regulations 2020 [SD 2020/0508].

¹⁰ 1999 c.33 as it is extended to the Island with modifications (see the Immigration (Isle of Man) Order 2008 [S.I. 2008/680] as amended).

- (a) British citizen;
 - (b) an Irish citizen;
 - (c) a person who has leave to enter or remain in the Isle of Man which was granted by virtue of residence scheme immigration rules. **22**.
- (3) In section 24 (duty to report suspicious marriages), in subsection (6), in the definition of “relevant national” —
- (a) after paragraph (a) insert —
 - 23**(aa) an Irish citizen, or
 - (ab) a person who is not an Irish citizen and who —
 - (i) has leave to enter or remain in the Isle of Man which was granted by virtue of residence scheme immigration rules, or
 - (ii) is an applicant for the purposes of regulation 4 of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (as they have effect in the Isle of Man) (applications which have not been finally determined by the deadline) where the relevant period within the meaning of that regulation has not expired. **22**;
 - (b) omit paragraphs (b) and (c).
- (4) In section 24A (duty to report suspicious civil partnerships), in subsection (5A), in the definition of “relevant national” —
- (a) after paragraph (a) insert—
 - 24**(aa) an Irish citizen; or
 - (ab) a person who is not an Irish citizen and who—
 - (i) has leave to enter or remain in the Isle of Man which was granted by virtue of residence scheme immigration rules, or
 - (ii) is an applicant for the purposes of regulation 4 of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (as they have effect in the Isle of Man) (applications which have not been finally determined by the deadline) where the relevant period within the meaning of that regulation has not expired. **22**;
 - (b) omit paragraphs (b) and (c).
- (5) In section 167 (interpretation), in subsection (1), at the appropriate place insert —
- 25**“residence scheme immigration rules” means —
 - (a) Appendix EU to the immigration rules except those rules, or changes to that Appendix, which are identified in the

- immigration rules as not having effect in connection with the residence scheme that operates in connection with the withdrawal of the United Kingdom from the EU; and
- (b) any other immigration rules which are identified in the immigration rules as having effect in connection with the withdrawal of the United Kingdom from the EU. **22**.

6 Amendment and saving of the Nationality, Immigration and Asylum Act 2002

- (1) The Nationality, Immigration and Asylum Act 2002¹¹ is amended as follows.
- (2) In section 84(1)(d) (grounds of appeal), for the words “the EU Treaties in respect of entry to or residence in the Isle of Man” substitute **23** the Citizens’ Rights (Restriction of Rights of Entry and Residence) (EU Exit) Regulations 2020 (as they have effect in the Isle of Man) or rights otherwise conferred in order to give effect in the Isle of Man to obligations conferred in the United Kingdom under the EU withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens’ rights agreement **24**.
- (3) In section 126(2) (physical data: compulsory provision), omit paragraph (e).
- (4) The amendments made by paragraph (3) do not affect the operation of any regulations made under section 126(1) of the Nationality, Immigration and Asylum Act 2002 before commencement day in relation to any application for a document referred to in section 126(2)(e) that was made before commencement day.

7 Amendment of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

- (1) The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004¹² is amended as follows.
- (2) In section 2 (entering the Isle of Man without a passport etc.) —
- (a) in subsection (4) —
- (i) for paragraph (a) substitute —
- 25**(a) to prove that he is —
- (i) an Irish citizen; or

¹¹ 2002 c.41 as it is extended to the Island (see the Immigration (Isle of Man) Order 2008 [S.I. 2008/680] as amended).

¹² 2004 c.19 as it is extended to the Island (see the Immigration (Isle of Man) Order 2008 [S.I. 2008/680] as amended).

- (ii) has leave to enter or remain in the Isle of Man which was granted by virtue of residence scheme immigration rules. **22**;
- (ii) omit paragraph (b);
- (b) in subsection (5) —
 - (i) for paragraph (a) substitute —
 - 23**(a) to prove that the child is —
 - (i) an Irish citizen; or
 - (ii) has leave to enter or remain in the Isle of Man which was granted by virtue of residence scheme immigration rules. **22**;
 - (ii) omit paragraph (b);
- (c) in subsection (12)—
 - (i) omit the definition of “EEA national”;
 - (ii) in the definition of “immigration document” omit the “and” after paragraph (b);
 - (iii) after the definition of “leave or asylum interview” insert—
 - 24** “residence scheme immigration rules” means —
 - (a) Appendix EU to the immigration rules except those rules, or changes to that Appendix, which are identified in the immigration rules as not having effect in connection with the residence scheme that operates in connection with the withdrawal of the United Kingdom from the EU; and
 - (b) any other immigration rules which are identified in the immigration rules as having effect in connection with the withdrawal of the United Kingdom from the EU. **22**.

DIVISION 2 – AMENDMENT AND SAVING OF SECONDARY LEGISLATION

8 Amendment and saving of the Immigration (Control of Entry through Republic of Ireland) Order 2016

- (1) The Immigration (Control of Entry through Republic of Ireland) Order 2016¹³ is amended as follows.
- (2) In article 3 (interpretation) —
 - (a) omit the definition of “EEA national”;
 - (b) omit the definition of “EEA State”.
- (3) In article 4(1)(b) (persons excluded from section 1(3) of the Act) —
 - (a) at the end of paragraph (iii) insert **25** or **26**;

¹³ SD 49/2016

- (b) omit paragraph (iv);
 - (c) omit paragraph (v).
- (4) In article 6 (restrictions and conditions on entry through Ireland) –
- (a) in paragraph (1) –
 - (i) for “EEA national” substitute **64** Irish citizen **62**;
 - (ii) omit “or a person who is entitled to enter or remain in the Isle of Man by virtue of section 7 of the 1988 Act”;
 - (b) omit paragraph (9).
- (5) Notwithstanding the revocation of article 4(1)(b)(v) by this regulation, that article continues to apply as if not amended by these Regulations where an order is in operation excluding an individual from the Isle of Man and the order –
- (a) was made before commencement day by virtue of the EEA Regulations 2019 and continues in operation under paragraph 2 of Schedule 2 to these Regulations, or
 - (b) is made on or after commencement day by virtue of those 2019 Regulations as they continue to have effect by virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) (Application) Regulations 2020.

9 Amendment and saving of the Immigration (Leave to Enter and Remain) Order 2019

- (1) The Immigration (Leave to Enter and Remain) Order 2019¹⁴ is amended as follows.
- (2) In article 18 (partners and children of Crown servants etc.), in paragraph (2)(b) –
- (a) at the end of sub-paragraph (i), insert **64** or **62**;
 - (b) omit sub-paragraph (iii) (and the “or” before it).
- (3) The amendment made by paragraph (1) does not apply in respect of persons who are accompanying a partner or parent who before 1st July 2021 had a right of permanent residence in the Isle of Man by virtue of an enforceable EU right or any provision made under section 2B of the European Communities (Isle of Man) Act 1973¹⁵ or section 17 of the European Union and Trade Act 2019¹⁶.

¹⁴ SD 2019/0147

¹⁵ AT 14 of 1973

¹⁶ AT 2 of 2019

10 Amendment and saving of the Immigration (Provision of Physical Data) Regulations 2019

- (1) The Immigration (Provision of Physical Data) Regulations 2019¹⁷ are amended as follows.
- (2) In regulation 3 (interpretation), in the definition of “application” omit paragraph (c).
- (3) In regulation 10 (use and retention of biometric information) –
 - (a) at the end of sub-paragraph (2)(c), insert **ca** and **cb**;
 - (b) omit sub-paragraph (2)(e) (and the “and” before it).
- (4) In regulation 12 (retention of fingerprints) –
 - (a) at the end of sub-paragraph (2)(d) insert “or”;
 - (b) omit sub-paragraph (2)(f) (and the “or” before it);
 - (c) in paragraph (3) –
 - (i) omit “or (f)”;
 - (ii) omit “or who no longer enjoys the right of permanent residence”;
 - (d) omit paragraph (4).
- (5) The amendment made by paragraph (2) does not apply in respect of an application made before commencement day where a document was not issued before commencement day.
- (6) Notwithstanding the amendment of regulation 10 by paragraph (3), biometric information held by the Minister immediately before commencement day may be used in connection with the exercise of any function after commencement day concerning the entitlement of a person who is not a national of an EEA state or Switzerland to enter or remain in the Isle of Man by virtue of –
 - (a) a right the person would have had to enter or remain in the United Kingdom under the EEA EFTA separation agreement, the EU withdrawal agreement or the Swiss citizens’ rights agreement (within the meaning of section 39(1) of the European Union (Withdrawal Agreement) Act 2020); or
 - (b) the EEA Regulations 2019 as they continue to have effect by virtue of the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.
- (7) The amendment of regulation 12 by paragraph (4) does not apply in relation to fingerprints held by the Minister immediately before commencement day.

¹⁷ SD 2019/0145

11 Amendment of the Immigration (Fees) (No.2) Order 2020

- (1) The Immigration and Nationality (Fees) (No.2) Order 2020¹⁸ is amended as follows.
- (2) In article 2 (interpretation), omit the definition of “European residence document”.
- (3) In article 6 (documents and administration), in table 2, omit the entry at row 2.1.3 (European residence document).

12 Amendment of the Immigration (Fees) (No.2) Regulations 2020

- (1) The Immigration (Fees) (No.2) Regulations 2020¹⁹ are amended as follows.
- (2) In Regulation 3, omit the definition of “the 2019 Regulations”.
- (3) In Schedule 3 (documents and administration), in Table 7, omit rows 7.2 and 7.2.1.

13 Amendment of the Immigration (European Economic Area Nationals) (EU Exit) Order 2019

- (1) The Immigration (European Economic Area Nationals) (EU Exit) Order 2019²⁰ is amended as follows.
- (2) In article 2 (citation and commencement), omit paragraph (1).
- (3) omit articles 4 to 7.

14 Amendment of the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020

- (1) The Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020²¹ are amended as follows.
- (2) For regulation 6(3) substitute —
 - (3) But paragraph (2) does not apply to a person if the decision to remove that person was taken —
 - (a) under regulation 24(6)(b) of the Immigration (European Economic Area) Regulations 2019 (“the 2019 Regulations”) where the decision to remove was taken before the revocation of the 2019 Regulations, or
 - (b) otherwise, under regulation 24(6)(b) of the 2019 Regulations as it continues to have effect by virtue of the Citizens’ Rights

¹⁸ SD 2020/0141

¹⁹ SD 2020/0142

²⁰ SD 2019/0146

²¹ S.I. 2020/61 (as applied to the Island by the Immigration (Citizens’ Rights Appeals) (EU Exit) (Application) Regulations 2020).

(Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 or the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020. ²².

15 Amendment of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020

- (1) The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020²² are amended as follows.
- (2) In regulation 7 (provisions relating to powers of refusal of admission and removal etc.), for paragraph (1)(a) substitute—
 - ²³(a) regulation 24 (exclusion and removal from the Isle of Man) with the modification that in each of paragraphs (1), (5), (6)(b) and (7)(b), after “regulation 28”, there were inserted “or on conducive grounds in accordance with regulation 28A”. ²⁴.

DIVISION 3 – REVOCATION OF SECONDARY LEGISLATION

16 Revocation of the Immigration (European Economic Area) Regulations 2019

The Immigration (European Economic Area) Regulations 2019²³ are revoked.

17 Revocation of the European Union and Trade Act 2019 (Deficiencies) (Immigration) Regulations 2019

The European Union and Trade Act 2019 (Deficiencies) (Immigration) Regulations 2019²⁴ are revoked.

²² S.I. 2020/1209 (as applied to the Island by the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) (Application) Regulations 2020).

²³ SD 2019/0132

²⁴ SD 2019/0331

**PART 3 – SAVING PROVISION IN CONNECTION WITH THE
EC ASSOCIATION AGREEMENT WITH TURKEY**

18 Schedule 1 has effect.

**PART 4 – SAVING PROVISION IN CONNECTION WITH THE
IMMIGRATION (EUROPEAN ECONOMIC AREA)
REGULATIONS 2019**

19 Schedule 2 has effect.

**PART 5 – TRANSITIONAL AND FURTHER SAVING
PROVISION**

20 Schedule 3 has effect.

MADE 18 DECEMBER 2020

SCHEDULE 1

**SAVING PROVISION IN CONNECTION WITH THE EC ASSOCIATION
AGREEMENT WITH TURKEY**

Regulation 18

**1 Provision consequential or connected with the EC Association with
Turkey**

- (1) Notwithstanding paragraph 6(1) of Schedule 1 to the of the 2020 Act, the Agreement establishing an Association between the European Community and Turkey, signed at Ankara on 12th September 1963 (“EC Association Agreement”) and its Additional Protocol signed at Brussels on 23rd November 1970, continues to apply for the purposes —
 - (a) of a valid application for entry clearance or leave to enter or remain in the Isle of Man made by virtue of that agreement before commencement day until that application is finally determined; and
 - (b) the restriction of rights to enter or remain in the Isle of Man of a relevant person (“P”), where that restriction is imposed by virtue of P’s conduct that took place before commencement day.
- (2) In this paragraph, “relevant person” means a person —
 - (a) who had entry clearance, leave to enter or remain in the Isle of Man on the basis that the person would have been able to obtain entry clearance, leave to enter or remain in the United Kingdom by virtue of the EC Association Agreement immediately before commencement day; or
 - (b) who has made an application falling within sub-paragraph 1(a).

SCHEDULE 2

SAVING PROVISION IN CONNECTION WITH THE IMMIGRATION
(EUROPEAN ECONOMIC AREA) REGULATIONS 2019

Regulation 19

1 Interpretation

In this Schedule, “**EEA Regulations 2019**” means the Immigration (European Economic Area) Regulations 2019 and, unless provided otherwise, refers to those Regulations as they had effect immediately before they were revoked.

2 Deportation and exclusion orders

- (1) Any deportation order made or treated as having been made by virtue of the EEA Regulations 2019 as they had effect immediately before they were revoked continues to apply for the period specified in the order or until revoked.
- (2) Any deportation order made by virtue of the EEA Regulations 2019 as they are continued in effect by the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 continues to apply for the period specified in the order or until revoked.
- (3) Any exclusion order made or treated as having been made by virtue of the EEA Regulations 2019 as they had effect immediately before they were revoked continues to apply for the period specified in the order or until revoked.
- (4) Any exclusion order made by virtue of the EEA Regulations 2019 as they are continued in effect by the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 continues to apply for the period specified in the order or until revoked.
- (5) Regulations 35(3) to (6) of the EEA Regulations 2019 (revocation of deportation and exclusion orders) as they had effect immediately before they were revoked continue to apply —
 - (a) in respect of any deportation order or exclusion order within subparagraph (1) or (3) as if after “deportation or exclusion order” there were inserted **“made on the grounds of public policy, public security or public health in accordance with regulation 28(2);”**
 - (b) in respect of any deportation order or exclusion order within subparagraph (2) or (4) with the modifications that —
 - (i) in paragraph (3), after “deportation or exclusion order” there were inserted **“made on the grounds of public policy, public security or public health in accordance with regulation 28(2);”**
 - (ii) after paragraph (6) there were inserted —

- (7) An application for revocation of a deportation order made on conducive grounds in accordance with regulation 28A is to be considered in accordance with the immigration rules that apply in relation to an application for revocation of a deportation order made by virtue of section 3 of the Immigration Act 1971.
- (6) This paragraph does not apply to the extent that the provisions specified in paragraph (5) continue to apply to a deportation or exclusion order by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

3 Pending applications for documentation under the EEA Regulations 2019

- (1) Regulation 14 of the EEA Regulations (issue of EEA family permit), continues to apply for the purposes of considering and, where appropriate, granting an application for a family permit which was validly made in accordance with the EEA Regulations 2019 before commencement day.
- (2) Regulation 14 of the EEA Regulations also continues to apply for the purposes of considering and, where appropriate, granting an application for a family permit which was validly made in accordance with the EEA Regulations 2019 after commencement day by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.
- (3) Regulation 19 of the EEA Regulations (issue of registration certificate), continues to apply for the purposes of considering and, where appropriate, granting an application for a registration certificate which was validly made in accordance with the EEA Regulations 2019 before commencement day.
- (4) Regulation 20 of the EEA Regulations (issue of a document certifying permanent residence and a permanent residence card), continues to apply for the purposes of considering and, where appropriate, granting an application for a registration certificate which was validly made in accordance with the EEA Regulations 2019 before commencement day.
- (5) Regulation 21 of the EEA Regulations (issue of a derivative residence card), continues to apply for the purposes of considering and, where appropriate, granting an application for a residence card which was validly made in accordance with the EEA Regulations 2019 before commencement day.

4 Application of EEA Regulations 2016 to pending applications

- (1) Subject to sub-paragraph (2) the provisions of the EEA Regulations 2019 specified in paragraph 6 continue to apply (despite the revocation of those Regulations) with the modifications specified for the purposes of

determining whether an application referred to in paragraph 3 should be granted.

- (2) The provisions specified in paragraph 6 do not apply to the extent that the provisions of the EEA Regulations 2019 specified in that paragraph continue to apply to an application within paragraph 3(2) by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

5 Existing appeal rights and appeals

- (1) Subject to sub-paragraph (4), the provisions of the EEA Regulations 2019 specified in paragraph 6 continue to apply—
- (a) to any appeal which has been brought under the Immigration (European Economic Area) Regulations 2009²⁵ and has not been finally determined before commencement day;
 - (b) to any appeal which has been brought under the EEA Regulations 2019 and has not been finally determined before commencement day;
 - (c) in respect of an EEA decision, within the meaning of the EEA Regulations 2019, taken before commencement day, or
 - (d) in respect of an EEA decision, within the meaning of the EEA Regulations 2019 as they continue in effect by virtue of these Regulations or the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020, which is taken on or after commencement day.
- (2) For the purposes of paragraph (1)—
- (a) an appeal is not to be treated as finally determined while a further appeal may be brought and, if such a further appeal is brought, the original appeal is not to be treated as finally determined until the further appeal is determined, withdrawn or abandoned; and
 - (b) an appeal is not to be treated as abandoned solely because the appellant leaves the Isle of Man.
- (3) The revocation of the EEA Regulations 2019 does not affect the application of the Immigration (European Economic Area) Regulations 2009 to an appeal that falls within paragraph 2(1) of Schedule 4 to the EEA Regulations 2019.
- (4) The provisions specified in paragraph 6 do not apply to the extent that the provisions of the EEA Regulations 2019 specified in paragraph 6 continue to apply to an appeal or EEA decision by virtue of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.

²⁵ SD 635/09

6 Specified provisions of the EEA Regulations 2019

The specified provisions of the EEA Regulations 2019 are —

- (a) regulation 3 (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 under retained EU law;
 - (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 Isle of Man under retained EU law;
 - (bb) in so far as they relate to things done on or after commencement day, were omitted;
 - (iii) as if, at the end of the definition of “deportation order”, there were inserted **63** or under section 5(1) of the Immigration Act 1971 **62**;
 - (iv) as if, in the definition of “EEA State”, the words “, other than the United Kingdom” were omitted; and
 - (v) as if, at the end of the definition of “exclusion order”, there were inserted **63** or directions issued by the Minister for a person not to be given entry to the Isle of Man on the grounds that the person’s exclusion is conducive to the public good **62**;
- (b) regulation 4 (continuity of residence) with the modification that, at the end of paragraph (3)(c), there were inserted **63** or the Immigration Acts **62**;
- (c) regulation 5 (“worker”, “self-employed person”, “self-sufficient person” and “student”) with the modification that, in paragraph (1)(b), for “in accordance with” there were substituted **63** within the meaning of **62**;
- (d) regulation 6 (“worker or self-employed person who has ceased activity”);
- (e) regulation 7 (“qualified person”) with the following modifications —
 - (i) in paragraph (13), “and having a genuine chance of being engaged” were omitted;

- (ii) in paragraph (7), after “employment and” there were inserted **63**, where that person is a jobseeker **62**;
- (iii) in paragraph (8), after “continuing to seek employment and” there were inserted **63**, where that person is a jobseeker **62**;
- (f) regulation 8 (“family member”);
- (g) regulation 9 (“extended family member”);
- (h) regulation 10 (family members and extended family members of British citizens) with the following modifications —
 - (i) in paragraph (1), at the end there were inserted **63** and BC is to be treated as satisfying any requirement to be a qualified person **62**;
 - (ii) sub-paragraph (a) of paragraph (3) were omitted;
 - (iii) paragraph (7) were omitted;
- (i) regulation 11 (dual national: national of an EEA State who acquires British citizenship);
- (j) regulation 12 (“family member who has retained the right of residence”) with the modification that, in paragraph (2)(b), in so far as it applies to residence in the Isle of Man after commencement day, for “in accordance with these Regulations” there were substituted **63** “lawfully **62**”;
- (k) regulation 13 (right of admission to the Isle of Man);
- (l) regulation 22 (procedure for applications for documentation under this Part and regulation 14);
- (m) regulation 23 (verification of a right of residence);
- (n) regulation 24 (exclusion and removal from the Isle of Man) with the modification that in each of paragraphs (1), (5), (6)(b) and (7)(b), after “regulation 28”, there were inserted **63** or on conducive grounds in accordance with regulation 28A **62**;
- (o) regulation 25(1), (3),(4), (6) and (7) (refusal to issue or renew and revocation of residence documentation), with the modification that references to revocation are omitted;
- (p) regulation 28 (decisions taken on grounds of public policy, public security and public health) with the modification that after regulation 28 there were inserted —

63 28A Decisions taken on conducive grounds

- (1) An EEA decision may be taken on the ground that the decision is conducive to the public good.

- (2) But a decision may only be taken under this regulation in relation to a person as a result of conduct of that person that took place after commencement day. **22**;
- (q) regulation 29 (application of Part 4 to a person with a derivative right to reside) in so far as it applies to a person within regulation 29(1)(c);
- (r) regulation 33 (person subject to removal) with the modification that in paragraph (5), after “public health”, there were inserted **23** in accordance with regulation 28 or on conducive grounds in accordance with regulation 28A **22**;
- (s) regulation 34 (human rights considerations and interim orders to suspend removal);
- (t) regulation 36 (interpretation of Part 7) in respect of the interpretation of the provisions which continue to apply by virtue of paragraph 4 or 5 of this Schedule;
- (u) regulation 37 (appeal rights);
- (v) regulation 38 (out of country appeals);
- (w) regulation 39 (effect of appeals to an adjudicator);
- (x) regulation 40 (alternative evidence of identity and nationality).

7 Nationality, Immigration and Asylum Act 2002– saving in relation to appeals

The repeal of section 109 of the Nationality, Immigration and Asylum Act 2002 (power to make regulations about appeals against immigration decisions in respect of persons having, or claiming to have, EU rights), by paragraph 2(1) of Schedule 1 to the 2020 Act, does not affect —

- (a) the power to make regulations under that section which provide for, or make provision about, an appeal in relation to which provisions of the EEA Regulations 2019 continue to have effect by virtue of these Regulations, the Citizens’ Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 or the Citizens’ Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020; or
- (b) the operation of any regulations made under that section insofar as they continue to have effect on or after commencement day by virtue of these Regulations or by virtue of any of the other Regulations of 2020 referred to in sub-paragraph (a).

SCHEDULE 3

TRANSITIONAL AND FURTHER SAVING PROVISION

Regulation 20

1 Transitional provision in relation to the immigration status of Irish citizens

- (1) Paragraph (2) applies in respect of an Irish citizen who —
 - (a) immediately before commencement day, was (or was treated as), subject to an exclusion order made under regulation 24(5) of the EEA Regulations 2019; or
 - (b) is subject to an exclusion order made under regulation 24(5) of the EEA Regulations 2019 as they are continued in effect by the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020.
- (2) Unless the Minister directs otherwise, the Irish citizen is to be treated for the purposes of section 3ZA of the Immigration Act 1971 as a person to whom section 3ZA(3) applies.

2 Saving in relation to section 2 of the 2020 Act

- (1) The amendment of section 9(2) of the Immigration Act 1971 (further provisions about the common travel area) made by section 2(3) of the 2020 Act does not affect the operation in relation to an Irish citizen of any subordinate legislation which was made under section 9(2) of the Immigration Act 1971 before commencement day for the purposes of the giving effect in the Isle of Man to the implementation in the United Kingdom of Article 32(1)(b) of the withdrawal agreement, Article 31(1)(b) of the EEA EFTA separation agreement or Article 26a(1)(b) of the Swiss citizens' rights agreement.
- (2) In paragraph (1), "EEA EFTA separation agreement" and "Swiss citizens' rights agreement" have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (of Parliament) (see section 39(1) of that Act).

3 Saving in relation to Schedule 1 to the 2020 Act

The repeal by paragraph 6 of Schedule 1 to the 2020 Act of the rights, powers, liabilities obligations, restrictions, remedies and procedures to which that paragraph applies does not prevent those rights, powers, liabilities, obligations, restrictions, remedies and procedures being recognised and available in domestic law in respect of a time before commencement day.

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.