

SCHEDULE 1

Regulation 26(7)

APPEALS TO THE ASYLUM AND IMMIGRATION TRIBUNAL

The following provisions of, or made under, the 2002 Act have effect in relation to an appeal under these Regulations to the Asylum and Immigration Tribunal as if it were an appeal against an immigration decision under section 82(1) of that Act:

- section 84(1)(1), except paragraphs (a) and (f);
- sections 85 to 87;
- sections 103A to 103E;
- section 105 and any regulations made under that section; and
- section 106 and any rules made under that section(2).

SCHEDULE 2

Regulation 30

EFFECT ON OTHER LEGISLATION

Leave under the 1971 Act

1.—(1) In accordance with section 7 of the Immigration Act 1988(3), a person who is admitted to or acquires a right to reside in the United Kingdom under these Regulations shall not require leave to remain in the United Kingdom under the 1971 Act during any period in which he has a right to reside under these Regulations but such a person shall require leave to remain under the 1971 Act during any period in which he does not have such a right.

(2) Where a person has leave to enter or remain under the 1971 Act which is subject to conditions and that person also has a right to reside under these Regulations, those conditions shall not have effect for as long as the person has that right to reside.

Persons not subject to restriction on the period for which they may remain

2.—(1) For the purposes of the 1971 Act and the British Nationality Act 1981(4), a person who has a permanent right of residence under regulation 15 shall be regarded as a person who is in the United Kingdom without being subject under the immigration laws to any restriction on the period for which he may remain.

(2) But a qualified person, the family member of a qualified person and a family member who has retained the right of residence shall not, by virtue of that status, be so regarded for those purposes.

Carriers' liability under the 1999 Act

3. For the purposes of satisfying a requirement to produce a visa under section 40(1)(b) of the 1999 Act(5) (charges in respect of passenger without proper documents), “a visa of the required kind” includes an EEA family permit, a residence card or a permanent residence card required for admission under regulation 11(2).

(1) Section 84(1) is amended by [S.R. 2003/341](#).

(2) Sections 85 to 87 and 105 to 106 are amended by, and sections 103A to 103E are inserted by, section 26 of the Asylum and Immigration (Treatment of Claimants etc) Act [2004 \(c. 19\)](#).

(3) [1988 c. 14](#).

(4) [1981 c. 61](#).

(5) Section 40 was substituted by paragraph 13 of Schedule 8 to the 2002 Act.

Appeals under the 2002 Act and previous immigration Acts

4.—(1) The following EEA decisions shall not be treated as immigration decisions for the purpose of section 82(2) of the 2002 Act (right of appeal against an immigration decision)—

- (a) a decision that a person is to be removed under regulation 19(3)(a) by way of a direction under section 10(1)(a) of the 1999 Act (as provided for by regulation 24(2));
- (b) a decision to remove a person under regulation 19(3)(b) by making a deportation order under section 5(1) of the 1971 Act (as provided for by regulation 24(3));
- (c) a decision to remove a person mentioned in regulation 24(4) by way of directions under paragraphs 8 to 10 of Schedule 2 to the 1971 Act.

(2) A person who has been issued with a registration certificate, residence card, a document certifying permanent residence or a permanent residence card under these Regulations or a registration certificate under the Accession (Immigration and Worker Registration) Regulations 2004⁽⁶⁾, or a person whose passport has been stamped with a family member residence stamp, shall have no right of appeal under section 2 of the Special Immigration Appeals Commission Act 1997 or section 82(1) of the 2002 Act. Any existing appeal under those sections of those Acts or under the Asylum and Immigration Appeals Act 1993⁽⁷⁾, the Asylum and Immigration Act 1996⁽⁸⁾ or the 1999 Act shall be treated as abandoned.

(3) Subject to paragraph (4), a person may appeal to the Asylum and Immigration Tribunal under section 83(2) of the 2002 Act against the rejection of his asylum claim where—

- (a) that claim has been rejected, but
- (b) he has a right to reside in the United Kingdom under these Regulations.

(4) Paragraph (3) shall not apply if the person is an EEA national and the Secretary of State certifies that the asylum claim is clearly unfounded.

(5) The Secretary of State shall certify the claim under paragraph (4) unless satisfied that it is not clearly unfounded.

(6) In addition to the national of a State which is a contracting party to the Agreement referred to in section 84(2) of the 2002 Act, a Swiss national shall also be treated as an EEA national for the purposes of section 84(1)(d) of that Act.

(7) An appeal under these Regulations against an EEA decision (including an appeal made on or after 1st April 2003 which is treated as an appeal under these Regulations under Schedule 4 but not an appeal made before that date) shall be treated as an appeal under section 82(1) of the 2002 Act against an immigration decision for the purposes of section 96(1)(a) of the 2002 Act.

(8) Section 120 of the 2002 Act shall apply to a person if an EEA decision has been taken or may be taken in respect of him and, accordingly, the Secretary of State or an immigration officer may by notice require a statement from that person under subsection (2) of that section and that notice shall have effect for the purpose of section 96(2) of the 2002 Act.

(9) In sub-paragraph (1), “family member residence stamp” means a stamp in the passport of a family member of an EEA national confirming that he is the family member of an accession State worker requiring registration with a right of residence under these Regulations as the family member of that worker; and in this sub-paragraph “accession State worker requiring registration” has the same meaning as in regulation 2 of the Accession (Immigration and Worker Registration) Regulations 2004.

⁽⁶⁾ S.I. 2004/1219, amended by S.I. 2004/1236 and S.I. 2005/2400.

⁽⁷⁾ 1993 c. 23.

⁽⁸⁾ 1996 c. 49.

SCHEDULE 3

Regulation 31(2)

REVOCATIONS AND SAVINGS

PART 1

TABLE OF REVOCATIONS

<i>(1)</i> <i>Regulations revoked</i>	<i>(2)</i> <i>References</i>	<i>(3)</i> <i>Extent of revocation</i>
The Immigration (European Economic Area) Regulations 2000	S.I.2000/2326	The whole Regulations
The Immigration (European Economic Area) (Amendment) Regulations 2001	S.I. 2001/865	The whole Regulations
The Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002	S.I. 2002/1241	The whole Regulations
The Immigration (European Economic Area) (Amendment) Regulations 2003	S.I. 2003/549	The whole Regulations
The Immigration (European Economic Area) (Amendment No. 2) Regulations 2003	S.I. 2003/3188	The whole Regulations
The Accession (Immigration and Worker Registration) Regulations 2004	S.I. 2004/1219	Regulations 3 and 6
The Immigration (European Economic Area) and Accession (Amendment) Regulations 2004	S.I. 2004/1236	Regulation 2
The Immigration (European Economic Area) (Amendment) Regulations 2005	S.I. 2005/47	The whole Regulations
The Immigration (European Economic Area)(Amendment) (No. 2) Regulations 2005	S.I. 2005/671	The whole Regulations

PART 2

SAVINGS

1. The—

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

- (a) Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002⁽⁹⁾ are not revoked insofar as they apply the 2000 Regulations to posted workers; and
 - (b) the 2000 Regulations and the Regulations amending the 2000 Regulations are not revoked insofar as they are so applied to posted workers;
- and, accordingly, the 2000 Regulations, as amended, shall continue to apply to posted workers in accordance with the Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002.

2. In paragraph 1, “the 2000 Regulations” means the Immigration (European Economic Area) Regulations 2000⁽¹⁰⁾ and “posted worker” has the meaning given in regulation 2(4)(b) of the Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002.

SCHEDULE 4

Regulation 31(2)

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

- (a) the “2000 Regulations” means the Immigration (European Economic Area) Regulations 2000⁽¹¹⁾ and expressions used in relation to documents issued or applied for under those Regulations shall have the meaning given in regulation 2 of those Regulations;
- (b) the “Accession Regulations” means the Accession (Immigration and Worker Registration) Regulations 2004⁽¹²⁾.

Existing documents

2.—(1) An EEA family permit issued under the 2000 Regulations shall, after 29th April 2006, be treated as if it were an EEA family permit issued under these Regulations.

(2) Subject to paragraph (4), a residence permit issued under the 2000 Regulations shall, after 29th April 2006, be treated as if it were a registration certificate issued under these Regulations.

(3) Subject to paragraph (5), a residence document issued under the 2000 Regulations shall, after 29th April 2006, be treated as if it were a residence card issued under these Regulations.

(4) Where a residence permit issued under the 2000 Regulations has been endorsed under the immigration rules to show permission to remain in the United Kingdom indefinitely it shall, after 29th April 2006, be treated as if it were a document certifying permanent residence issued under these Regulations and the holder of the permit shall be treated as a person with a permanent right of residence under regulation 15.

(5) Where a residence document issued under the 2000 Regulations has been endorsed under the immigration rules to show permission to remain in the United Kingdom indefinitely it shall, after 29th April 2006, be treated as if it were a permanent residence card issued under these Regulations and the holder of the permit shall be treated as a person with a permanent right of residence under regulation 15.

⁽⁹⁾ S.I. 2002/1241.

⁽¹⁰⁾ S.I. 2000/2326, amended by S.I. 2001/865, S.I. 2003/549, S.I. 2003/3188, S.I. 2005/47 and S.I. 2005/671.

⁽¹¹⁾ S.I. 2000/2326, amended by S.I. 2001/865, S.I. 2003/549, S.I. 2003/3188, S.I. 2005/47 and S.I. 2005/671.

⁽¹²⁾ S.I. 2004/1219, amended by S.I. 2004/1236 and 2005/2400.

(6) Paragraphs (4) and (5) shall also apply to a residence permit or residence document which is endorsed under the immigration rules on or after 30th April 2006 to show permission to remain in the United Kingdom indefinitely pursuant to an application for such an endorsement made before that date.

Outstanding applications

3.—(1) An application for an EEA family permit, a residence permit or a residence document made but not determined under the 2000 Regulations before 30 April 2006 shall be treated as an application under these Regulations for an EEA family permit, a registration certificate or a residence card, respectively.

(2) But the following provisions of these Regulations shall not apply to the determination of an application mentioned in sub-paragraph (1)—

- (a) the requirement to issue a registration certificate immediately under regulation 16(1); and
- (b) the requirement to issue a certificate of application for a residence card under regulation 17(3).

Decisions to remove under the 2000 Regulations

4.—(1) A decision to remove a person under regulation 21(3)(a) of the 2000 Regulations shall, after 29th April 2006, be treated as a decision to remove that person under regulation 19(3)(a) of these Regulations.

(2) A decision to remove a person under regulation 21(3)(b) of the 2000 Regulations, including a decision which is treated as a decision to remove a person under that regulation by virtue of regulation 6(3)(a) of the Accession Regulations, shall, after 29th April 2006, be treated as a decision to remove that person under regulation 19(3)(b) of these Regulations.

(3) A deportation order made under section 5 of the 1971 Act by virtue of regulation 26(3) of the 2000 Regulations shall, after 29th April 2006, be treated as a deportation made under section 5 of the 1971 Act by virtue of regulation 24(3) of these Regulations.

Appeals

5.—(1) Where an appeal against an EEA decision under the 2000 Regulations is pending immediately before 30th April 2006 that appeal shall be treated as a pending appeal against the corresponding EEA Decision under these Regulations.

(2) Where an appeal against an EEA decision under the 2000 Regulations has been determined, withdrawn or abandoned it shall, on and after 30th April 2006, be treated as an appeal against the corresponding EEA decision under these Regulations which has been determined, withdrawn or abandoned, respectively.

(3) For the purpose of this paragraph—

- (a) a decision to refuse to admit a person under these Regulations corresponds to a decision to refuse to admit that person under the 2000 Regulations;
- (b) a decision to remove a person under regulation 19(3)(a) of these Regulations corresponds to a decision to remove that person under regulation 21(3)(a) of the 2000 Regulations;
- (c) a decision to remove a person under regulation 19(3)(b) of these Regulations corresponds to a decision to remove that person under regulation 21(3)(b) of the 2000 Regulations, including a decision which is treated as a decision to remove a person under regulation 21(3)(b) of the 2000 Regulations by virtue of regulation 6(3)(a) of the Accession Regulations;

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

- (d) a decision to refuse to revoke a deportation order made against a person under these Regulations corresponds to a decision to refuse to revoke a deportation order made against that person under the 2000 Regulations, including a decision which is treated as a decision to refuse to revoke a deportation order under the 2000 Regulations by virtue of regulation 6(3)(b) of the Accession Regulations;
- (e) a decision not to issue or renew or to revoke an EEA family permit, a registration certificate or a residence card under these Regulations corresponds to a decision not to issue or renew or to revoke an EEA family permit, a residence permit or a residence document under the 2000 Regulations, respectively.

Periods of residence under the 2000 Regulations

6.—(1) Any period during which a person carried out an activity or was resident in the United Kingdom in accordance with the 2000 Regulations shall be treated as a period during which the person carried out that activity or was resident in the United Kingdom in accordance with these Regulations for the purpose of calculating periods of activity and residence under these Regulations.

SCHEDULE 5

Regulation 31(2)

CONSEQUENTIAL AMENDMENTS

Statutory Instruments

The Channel Tunnel (International Arrangements) Order 1993

1.—(1) The Channel Tunnel (International Arrangements) Order 1993(**13**) is amended as follows.

(2) In Schedule 4, in paragraph 5—

- (a) at the beginning of the paragraph, for “the Immigration (European Economic Area) Regulations 2000” there is substituted “the Immigration (European Economic Area) Regulations 2006”;
- (b) in sub-paragraph (a), for “regulation 12(2)” there is substituted “regulation 11(2)” and for “residence document or document proving family membership” there is substituted “residence card or permanent residence card”;
- (c) for sub-paragraph (b) there is substituted—
 - “(b) in regulations 11(4) and 19(2) after the word “arrival” and in regulations 20(4) and (5) after the words “United Kingdom” insert “or the time of his production of the required documents in a control zone or a supplementary control zone”.

The Travel Restriction Order (Prescribed Removal Powers) Order 2002

2.—(1) The Travel Restriction Order (Prescribed Removal Powers) Order 2002(**14**) is amended as follows.

(2) In the Schedule, for “Immigration (European Economic Area) Regulations 2000 (2000/2326)” in the first column of the table there is substituted “Immigration (European Economic Area)

(13) S.I. 1993/1813, amended by S.I. 1994/1405, S.I. 1996/2283, S.I. 2000/913, S.I. 2000/1775, S.I. 2001/178, S.I. 2001/418, S.I. 2001/1544, S.I. 2000/3707 and S.I. 2003/2799.

(14) S.I. 2002/313.

Regulations 2006” and for “Regulation 21(3)” in the corresponding row in the second column of the table there is substituted “Regulation 19(3)”.

The Immigration (Notices) Regulations 2003

- 3.—(1) The Immigration (Notices) Regulations 2003(15) are amended as follows.
- (2) In regulation 2, in the definition of “EEA decision”—
- (a) at the end of paragraph (b), “or” is omitted;
 - (b) in paragraph (c), after “residence document;”, there is inserted “or”; and
 - (c) after paragraph (c), there is inserted—
 - “(d) on or after 30th April 2006, entitlement to be issued with or have renewed, or not to have revoked, a registration certificate, residence card, document certifying permanent residence or permanent residence card;”

The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003

- 4.—(1) The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003(16) is amended as follows.
- (2) In article 11(1), for sub-paragraph (e) there is substituted—
- “(e) the Immigration (European Economic Area) Regulations 2006.”.
- (3) In Schedule 2, in paragraph 5—
- (a) at the beginning of the paragraph, for “the Immigration (European Economic Area) Regulations 2000” there is substituted “the Immigration (European Economic Area) Regulations 2006”;
 - (b) in sub-paragraph (a), for “in regulation 2, at the beginning insert” there is substituted “in regulation 2(1), after the definition of “civil partner” insert“;
 - (c) in sub-paragraph (b), for “regulation 12(2)” there is substituted “regulation 11(2)” and for “residence document or document proving family membership” there is substituted “residence card or permanent residence card”;
 - (d) for sub-paragraph (c) there is substituted—
 - “(c) in regulations 11(4) and 19(2) after the word “arrival” and in regulations 20(4) and (5) after the words “United Kingdom” insert “or the time of his production of the required documents in a Control Zone”.

The Immigration and Asylum Act 1999 (Part V Exemption: Relevant Employers) Order 2003

- 5.—(1) The Immigration and Asylum Act 1999 (Part V Exemption: Relevant Employers) Order 2003(17) is amended as follows.
- (2) In Article 2, in the definition of “EEA national” and “family member of an EEA national”, for “Immigration (European Economic Area) Regulations 2000” there is substituted “Immigration (European Economic Area) Regulations 2006”.

(15) S.I. 2003/658.

(16) S.I. 2003/2818.

(17) S.I. 2003/3214.

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

The Immigration (Restrictions on Employment) Order 2004

- 6.—(1) The Immigration (Restrictions on Employment) Order 2004(18) is amended as follows.
- (2) In Part 1 of the Schedule (descriptions of documents for the purpose of article 4(2)(a) of the Order)—
- (a) for paragraph 4 there is substituted—
- “4. A registration certificate or document certifying permanent residence within the meaning of regulation 2 of the Immigration (European Economic Area) Regulations 2006, including a document which is treated as a registration certificate or document certifying permanent residence by virtue of Schedule 4 to those Regulations.”;
- (b) for paragraph 5 there is substituted—
- “5. A residence card or a permanent residence card within the meaning of regulation 2 of the Immigration (European Economic Area) Regulations 2006, including a document which is treated as a residence card or a permanent residence card by virtue of Schedule 4 to those Regulations”.

The Accession (Immigration and Worker Registration) Regulations 2004

- 7.—(1) The Accession (Immigration and Worker Registration) Regulations 2004(19) are amended as follows.
- (2) In regulation 1(2) (interpretation)—
- (a) after paragraph (b) there is inserted—
- “(ba) “the 2006 Regulations” means the Immigration (European Economic Area) Regulations 2006;”;
- (b) in paragraph (j), for “regulation 3 of the 2000 Regulations” there is substituted “regulation 4 of the 2006 Regulations”.
- (3) In regulation 2 (“accession State worker requiring registration”)—
- (a) for paragraph (6)(b) there is substituted—
- “(b) a family member of a Swiss or EEA national (other than an accession State worker requiring registration) who has a right to reside in the United Kingdom under regulation 14(1) or 15 of the 2006 Regulations;”;
- (b) paragraph (9)(a) is omitted;
- (c) for paragraph (9)(c) there is substituted—
- “(c) “family member” has the same meaning as in regulation 7 of the 2006 Regulations.”.
- (4) In regulation 4 (right of residence of work seekers and workers from relevant acceding States during the accession period)—
- (a) in paragraph (1), before “Council Directive” there is inserted “Council Directive [2004/38/EC](#) of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States(20), insofar as it takes over provisions of”;

(18) S.I. [2004/755](#).

(19) S.I. [2004/1219](#); amended by S.I. [2004/1236](#) and S.I. [2005/2400](#).

(20) OJ L 158, 30.4.2004, p.77 (the full title of the Directive is Council Directive [2004/38/EC](#) of the European Parliament and the Council on the rights of citizens of the Union and their family members to move and reside freely within the territory of the member States amending Regulation (EEC) No. [1612/68](#) and repealing Directives [64/221/EEC](#), [68/360/EEC](#), [72/194/EEC](#), [75/34/EEC](#), [90/364/EEC](#), [90/365/EEC](#) and [93/96/EEC](#)).

- (b) in paragraph (3), for “2000 Regulations” there is substituted “2006 Regulations”;
 - (c) in paragraph (4), for “An” there is substituted “A national of a relevant accession State who is seeking employment and an” and for “2000 Regulations” there is substituted “2006 Regulations”.
- (5) For regulation 5 (application of 2000 Regulations in relation to accession State worker requiring registration) there is substituted—

“Application of 2006 Regulations in relation to accession State worker requiring registration

5.—(1) The 2006 Regulations shall apply in relation to a national of a relevant accession State subject to the modifications set out in this regulation.

(2) A national of a relevant accession State who is seeking employment in the United Kingdom shall not be treated as a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of the 2006 Regulations and an accession State worker requiring registration shall be treated as a worker for the purpose of that definition only during a period in which he is working in the United Kingdom for an authorised employer.

(3) Subject to paragraph (4), regulation 6(2) of the 2006 Regulations shall not apply to an accession State worker requiring registration who ceases to work.

(4) Where an accession State worker requiring registration ceases working for an authorised employer in the circumstances mentioned in regulation 6(2) of the 2006 Regulations during the one month period beginning on the date on which the work begins, that regulation shall apply to that worker during the remainder of that one month period.

(5) An accession State worker requiring registration shall not be treated as a qualified person for the purpose of regulations 16 and 17 of the 2006 Regulations (issue of registration certificates and residence cards).”

The Asylum and Immigration Tribunal (Procedure) Rules 2005

8.—(1) The Asylum and Immigration Tribunal (Procedure) Rules 2005**(21)** are amended as follows.

(2) In regulation 18(1)(b), after “(“the 2000 Regulations”)“ there is inserted “or, on or after 30th April 2006, paragraph 4(2) of Schedule 2 to the Immigration (European Economic Area) Regulations 2006 (“the 2006 Regulations”)“.

(3) In regulation 18(2), after “2000 Regulations” there is inserted “or paragraph 4(2) of Schedule 2 to the 2006 Regulations”.

(21) S.I. 2005/230.