



CITIZENS' RIGHTS (RESTRICTIONS OF RIGHTS OF ENTRY AND RESIDENCE) (EU EXIT) (APPLICATION) REGULATIONS 2020

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Statutory Document No. 2020/0509



European Union and Trade Act 2019

CITIZENS' RIGHTS (RESTRICTIONS OF RIGHTS OF ENTRY AND RESIDENCE) (EU EXIT) (APPLICATION) REGULATIONS 2020

Approved by Tynwald: 15 December 2020
Coming into Operation: in accordance with regulation 2

The Council of Ministers makes the following Regulations under section 19 of the European Union and Trade Act 2019.

1 Title

These Regulations are the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) (Application) Regulations 2020.

2 Commencement

If approved by Tynwald, these Regulations come into operation when the Immigration (European Economic Area) Regulations 2019¹ are revoked.

3 Interpretation

- (1) In these Regulations, “**the applied legislation**” means the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020².
- (2) Unless the context otherwise requires or it is expressly provided, a reference in the applied legislation to a provision of any such legislation or of any other legislation applied or extended to the Island shall be construed as a reference to that legislation as it has effect in the Island.

4 Application to the Island of the applied legislation

- (1) The applied legislation applies to the Island as part of the law of the Island but subject to the exceptions, adaptations and modifications specified in the Schedule.

¹ SD 2019/0132

² S.I. 2020/1210

- (2) The text of the applied legislation as applied is set out in the Annex.

MADE 26 NOVEMBER 2020

W GREENHOW
Chief Secretary

SCHEDULE

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH
THE CITIZENS' RIGHTS (RESTRICTIONS OF RIGHTS OF ENTRY AND
RESIDENCE) (EU EXIT) REGULATIONS 2020 APPLY TO THE ISLAND AS PART
OF THE LAW OF THE ISLAND

Regulation 4(1)

The applied legislation applies to the Island, as part of the law of the Island, subject to the following modifications —

1. Unless this Schedule otherwise provides, wherever occurring throughout the applied legislation, except in —
 - (a) the definition of “residence scheme immigration rules” in regulation 1(2);
 - (b) regulation 2(2)(d)(on the second occasion it occurs); and
 - (c) paragraph 2(d) of the Schedule,for “United Kingdom” substitute **“Isle of Man”**.
2. Wherever occurring throughout the applied legislation, for “EEA Regulations 2016” substitute **“EEA Regulations 2019”**.
3. In regulation 1 —
 - (a) omit the definition of “the EEA Regulations 2016”;
 - (b) immediately after the omitted text insert the following definitions —

“the EEA Regulations 2019” mean the Immigration (European Economic Area) Regulations 2019;

“EEA EFTA separation agreement” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (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 purposes of acquiring leave to enter or remain in the Isle of Man by virtue of residence scheme immigration rules;

“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;

“**Swiss citizens’ rights agreement**” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);

“**withdrawal agreement**” means the withdrawal agreement within the meaning of the European Union and Trade Act 2019 (an Act of Tynwald) (see Schedule 1 to that Act).²²

4. In regulation 2 —
- (a) in paragraph (2)(b), at the end insert **23** or **22**;
- (b) omit paragraph (2)(c);
- (c) in paragraph (3), for “regulation 23(6)(b)” substitute **24** regulation 24(6)(b)²².
5. Omit regulation 3.
6. After regulation 3 insert —

23 3A Modification of the Nationality, Immigration and Asylum Act 2002

- (1) For the purposes of and to give effect to these Regulations, the Nationality, Immigration and Asylum Act 2002 is to be read as having effect subject to the following modification.
- (2) In section 84(1)(d) (grounds of appeal), for the words “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)³ 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 agreement²².²²

7. Omit regulation 4.
8. In the Schedule —
- (a) in paragraph 2 —
- (i) for “Regulation 2” substitute **23** Regulation 3²²;
- (ii) for “permanent residence card” substitute **23** military service²²;
- (b) in paragraph 3 —
- (i) in the heading, for “Part 4” substitute **23** Part 5²²;

³ See SD 2020/0509

- (ii) for “Regulation 23” substitute ~~“~~ Regulation 24 ~~”~~;
- (c) in paragraph 4 —
 - (i) for “Regulation 27” substitute ~~“~~ Regulation 28 ~~”~~;
 - (ii) for “regulation 15” substitute ~~“~~ regulation 17 ~~”~~;
 - (iii) for “section 17 of the European Union (Withdrawal Agreement) Act 2020” substitute ~~“~~ the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) (Application) Regulations 2020 ~~”~~;
- (d) in paragraph 5 —
 - (i) in the heading, for “Part 5” substitute ~~“~~ Part 6 ~~”~~;
 - (ii) for “Regulation 32” substitute ~~“~~ Regulation 33 ~~”~~;
 - (iii) for “regulation 23(1) or (3)” substitute ~~“~~ regulation 24(1) or (3) ~~”~~;
- (e) in paragraph 6, for “Regulation 33” substitute ~~“~~ Regulation 34 ~~”~~;
- (f) in paragraph 7, for “Regulation 34” substitute ~~“~~ Regulation 35 ~~”~~;
- (g) in paragraph 8 —
 - (i) in the heading, for “Part 6” substitute ~~“~~ Part 7 ~~”~~;
 - (ii) for “Regulation 35” substitute ~~“~~ Regulation 36 ~~”~~;
- (h) in paragraph 9 —
 - (i) for “Regulation 36” substitute ~~“~~ Regulation 37 ~~”~~;
 - (ii) omit “and (12)” at the end;
- (i) in paragraph 10 —
 - (i) for “Regulation 37” substitute ~~“~~ Regulation 38 ~~”~~;
 - (ii) for “regulation 23(1), (2), (3) or (4)” ~~“~~ regulation 24(1), (2), (3) or (4) ~~”~~;
- (j) omit paragraphs 11 and 12;
- (k) in paragraph 13 —
 - (i) for “Regulation 40” substitute ~~“~~ Regulation 39 ~~”~~;
 - (ii) for “the First-tier Tribunal or Upper Tribunal” substitute ~~“~~ an adjudicator ~~”~~;
 - (iii) for “a refusal of admission, a decision to revoke admission, or” substitute ~~“~~ a refusal of admission or a decision to revoke admission or ~~”~~;
 - (iv) for “(6)” substitute ~~“~~ (5) ~~”~~;
- (l) omit paragraph 14;
- (m) in paragraph 15 —
 - (i) omit sub-paragraph (a);
 - (ii) in sub-paragraph (b) —

- (aa) for “paragraph 6” substitute **6A** paragraph 1(5) **22**;
 - (bb) for “these Regulations” substitute **6A** by these Regulations **22**;
 - (cc) for “the EU withdrawal agreement” substitute **6A** in order to give effect in the Isle of Man to obligations conferred in the United Kingdom under the EU withdrawal agreement **22**;
- (iii) in sub-paragraph (c) —
- (aa) for “paragraph 6” substitute **6A** paragraph 1(5) **22**;
 - (bb) for “6A” substitute **6A** (6) **22**;
 - (cc) for “paragraph 6” substitute **6A** paragraph 1(5) **22**;
- (n) omit paragraphs 16 and 17.

ANNEX

TEXT OF THE CITIZENS' RIGHTS (RESTRICTIONS OF RIGHTS OF ENTRY AND RESIDENCE) (EU EXIT) REGULATIONS 2020 AS APPLIED TO THE ISLAND

Regulation 4(2)

IMPORTANT NOTES on how to interpret this Annex:

1. The portions of the text of this Annex through which there are strikethrough lines are portions that have been omitted from the applied legislation insofar as it applies to the Island.
2. The portions of the text of this Annex that are underlined constitute text that has been inserted into the applied legislation insofar as it applies to the Island.
3. The omitted portions and the inserted text collectively constitute exceptions, adaptations and modifications.
4. The text is presented in the style of Manx legislation.

STATUTORY INSTRUMENTS

2020 No.1210

THE CITIZENS' RIGHTS (RESTRICTIONS OF RIGHTS OF ENTRY AND RESIDENCE) (EU EXIT) REGULATIONS 2020

Made - - - - 3rd November 2020

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 9(1) and (4) and 11(1) and (4) of, and paragraph 12 of Schedule 4 to, the European Union (Withdrawal Agreement) Act 2020.

These are the first regulations to be made under section 9 of that Act. In accordance with paragraph 1(1) of Schedule 4 to that Act, a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

1 Citation, commencement and interpretation

- (1) These Regulations may be cited as the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 and come into force when the ~~EEA Regulations 2016~~ EEA Regulations 2019 are revoked.

- (2) In these Regulations—
- ~~“the EEA Regulations 2016”~~ means the Immigration (European Economic Area) Regulations 2016;
- ~~“the EEA Regulations 2019”~~ means the Immigration (European Economic Area) Regulations 2019⁴;
- ~~“EEA EFTA separation agreement”~~ has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (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 purposes of acquiring leave to enter or remain in the Isle of Man by virtue of residence scheme immigration rules;
- ~~“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;~~
- ~~“Swiss citizens’ rights agreement”~~ has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);
- ~~“withdrawal agreement”~~ means the withdrawal agreement within the meaning of the European Union and Trade Act 2019 (an Act of Tynwald) (see Schedule 1 to that Act).

2 ~~Continued application of the EEA Regulations 2016~~ EEA Regulations 2019

- (1) Notwithstanding the revocation of the ~~EEA Regulations 2016~~ EEA Regulations 2019, the provisions of the ~~EEA Regulations 2016~~ EEA Regulations 2019 specified in the Schedule continue to have effect, but with the modifications set out in the Schedule, for the purpose of removing a person who is protected by the citizens’ rights provisions.
- (2) For the purposes of paragraph (1), a person is protected by the citizens’ rights provisions if that person—
 - (a) has leave to enter or remain in the ~~United Kingdom~~ Isle of Man granted by virtue of residence scheme immigration rules;

⁴ SD 2019/0132

- (b) is in the ~~United Kingdom~~ Isle of Man (whether or not they have entered within the meaning of section 11(1) of the Immigration Act 1971⁵) having arrived with entry clearance granted by virtue of relevant entry clearance immigration rules; or
- ~~(c) is in the United Kingdom~~ Isle of Man (whether or not they have entered within the meaning of section 11(1) of the Immigration Act 1971) having arrived with entry clearance granted by virtue of Article 23 of the Swiss citizens' rights agreement; or
- (d) may be granted leave to enter or remain in the ~~United Kingdom~~ 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 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, whether or not the person has been granted such leave.
- (3) For the purposes of these Regulations, a person is also protected by the citizens' rights provisions if that person was protected by the citizens' rights provisions at the time that they became subject to a decision to remove them under ~~regulation 23(6)(b)~~ regulation 24(6)(b) of the ~~EEA Regulations 2016~~ EEA Regulations 2019, including as those Regulations continue to have effect by virtue of these Regulations.

~~3~~ **Amendment of the Immigration Act 1971**

- (1) ~~The Immigration Act 1971 is amended as follows.~~
- (2) ~~In section 3(10) (definition of "relevant person"), after paragraph (b) insert—~~
- ~~“(ba) if the person is in the United Kingdom (whether or not they have entered within the meaning of section 11(1)) having arrived with entry clearance granted by virtue of Article 23 of the Swiss citizens' rights agreement,”.~~

3A Modification of the Nationality, Immigration and Asylum Act 2002

- (1) For the purposes of and to give effect to these Regulations, the Nationality, Immigration and Asylum Act 2002 is to be read as having effect subject to the following modification.
- (2) In section 84(1)(d) (grounds of appeal), for the words “EU Treaties in respect of entry to or residence in the Isle of Man” substitute “Citizens' Rights (Restriction of Rights of Entry and Residence) (EU Exit) Regulations 2020 (as they have effect in the Isle of Man)”⁶ or rights

⁵ 1971 c.77

⁶ See SD 2020/0509

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 ~~22~~.

~~4~~ ~~Amendment of the UK Borders Act 2007~~

- (1) ~~The UK Borders Act 2007 is amended as follows.~~
- (2) ~~In section 33(6C) (definition of “relevant person”), after paragraph (b) insert—~~
- ~~“(ba) if the person is in the United Kingdom ~~Isle of Man~~ (whether or not they have entered within the meaning of section 11(1) of the Immigration Act 1971) having arrived with entry clearance granted by virtue of Article 23 of the Swiss citizens' rights agreement,”.~~

SCHEDULE

Regulation 2(1)

Introductory

1. Unless otherwise specified, references within this Schedule to regulations or to Schedules are references to regulations within, or Schedules to, the ~~EEA Regulations 2016~~ EEA Regulations 2019.

Savings and modifications to definitions

2. ~~Regulation 2~~ Regulation 3 (general interpretation) continues to have effect with the following modifications to paragraph (1)—
 - (a) the definitions of “civil partner”, “civil partnership of convenience”, “durable partner”, “durable partnership of convenience”, “marriage of convenience” and “spouse” are omitted;
 - (b) in the definition of “EEA decision”, omit sub-paragraphs (a), (b) and (d);
 - (c) after the definition of “EEA decision”, insert—

~~23~~ **“EEA EFTA separation agreement”** has the same meaning as in the European Union (Withdrawal Agreement) Act 2020⁷ (see section 39(1) of that Act); ~~24~~;
 - (d) in the definition of “EEA State”, omit the words “other than the United Kingdom” so far as relevant to things done after exit day;

⁷ 2020 c.1

(e) after the definition of “~~permanent residence card~~ military service”, insert—

“**person protected by the citizens’ rights provisions**” has the meaning given by regulation 2(2) of the Citizens’ Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020⁸; **”;**

(f) after the definition of “spouse”, insert—

“**Swiss citizens’ rights agreement**” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act); **”**.”

Savings and modifications to ~~Part 4~~ Part 5

3. ~~Regulation 23~~ Regulation 24 (exclusion and removal from the ~~United Kingdom~~ Isle of Man) continues to have effect with the following modifications—

(a) omit paragraphs (1) to (5);

(b) in paragraph (6)—

(i) for “an EEA national who has entered the ~~United Kingdom~~ Isle of Man or the family member of such a national” substitute **“a person protected by the citizens’ rights provisions”**;

(ii) omit sub-paragraphs (a) and (c);

(c) in paragraph (7)

(i) at the end of sub-paragraph (a), omit “or”;

(ii) omit sub-paragraph (b);

(d) omit paragraph (9).

4. ~~Regulation 27~~ Regulation 28 (decisions taken on grounds of public policy, public security and public health) continues to have effect with the modification that in paragraph (3) and paragraph (4)(a), for “a right of permanent residence under ~~regulation 15~~ regulation 17” substitute **“indefinite leave to enter or remain in the ~~United Kingdom~~ Isle of Man granted under residence scheme immigration rules (as defined in ~~section 17 of the European Union (Withdrawal Agreement) Act 2020~~ the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) (Application) Regulations 2020)”**.

Savings and modifications to ~~Part 5~~ Part 6

5. ~~Regulation 32~~ Regulation 33 (person subject to removal) continues to have effect with the following modifications—

(a) omit paragraph (2);

⁸ S.I. 2020/1210 (as applied by SD 2020/0509).

- (b) in paragraph (4), omit “or exclusion” and “, or in circumstances where that person was not entitled to be admitted under ~~regulation 23(1) or (3)~~ regulation 24(1) or (3)”;
 - (c) in paragraph (5), omit “on the grounds of public policy, public security or public health”;
 - (d) omit paragraph (7).
6. ~~Regulation 33~~ Regulation 34 (human rights consideration and interim orders to suspend removal) continues to have effect.
 7. ~~Regulation 34~~ Regulation 35 (revocation of deportation and exclusion orders) continues to have effect with the following modifications—
 - (a) omit paragraph (1);
 - (b) in paragraph (3), omit “or exclusion”.

Savings and modifications to ~~Part 6~~ Part 7

8. ~~Regulation 35~~ Regulation 36 (interpretation of Part 6) continues to have effect.
9. ~~Regulation 36~~ Regulation 37 (appeal rights) continues to have effect with the following modifications—
 - (a) in paragraph (2)—
 - (i) for “to be an EEA national” substitute ~~to~~ to be a person protected by the citizens’ rights provisions ~~to~~;
 - (ii) for “or passport issued by an EEA State” substitute ~~to~~ issued by an EEA State or a valid passport ~~to~~;
 - (b) omit sub-paragraphs (3) to (6) ~~and (12)~~.
10. ~~Regulation 37~~ Regulation 38 (out of country appeals) continues to have effect with the following modifications—
 - (a) in paragraph (1)—
 - (i) omit sub-paragraphs (a), (b), (c), (e) and (f) (but not the final “or” after sub-paragraph (f));
 - (ii) in sub-paragraph (d), omit “or exclusion”;
 - (iii) in sub-paragraph (g), omit “or exclusion” and “, or in circumstances where that person was not entitled to be admitted pursuant to ~~regulation 23(1), (2), (3) or (4)~~ regulation 24(1), (2), (3) or (4)”;
 - (b) omit paragraph (2).
11. ~~Regulation 38 (appeals to the Commission) continues to have effect with the modification that in paragraph (3), omit “exclusion or”.~~
12. ~~Regulation 39 (national security: EEA decisions) continues to have effect.~~

13. ~~Regulation 40~~ Regulation 39 (effect of appeals to ~~the First tier Tribunal or Upper Tribunal~~ an adjudicator) continues to have effect with the following modifications—
- (a) omit paragraphs (2), (3) and ~~(6)~~ (5);
 - (b) in paragraph (4), omit “~~a refusal of admission, a decision to revoke admission, or a refusal of admission or a decision to revoke admission or~~”.
14. ~~Regulation 41 (temporary admission to submit case in person)~~ continues to have effect.

Savings and modifications to the Schedules

15. Schedule 1 (considerations of public policy, public security and the fundamental interests of society etc.) continues to have effect with the following modifications—
- (a) ~~for paragraph 1 there were substituted—~~
“~~1. The United Kingdom enjoys considerable discretion, acting within the parameters set by the law, to define its own standards of public policy and public security, for the purposes tailored to its individual context from time to time.~~”;
 - (b) in ~~paragraph 6~~ paragraph 1(5), for “~~these Regulations~~ by these Regulations”, substitute “the EU withdrawal agreement 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”;
 - (c) after ~~paragraph 6~~ paragraph 1(5), there were inserted—
“~~6A~~ (6). For the purpose of ~~paragraph 6~~ paragraph 1(5), a marriage, civil partnership or durable partnership of convenience means a marriage, civil partnership or durable partnership entered into as a means to circumvent any criteria that the party to the marriage, civil partnership or durable partnership would otherwise have to meet in order to enjoy a right to reside in the ~~United Kingdom~~ Isle of Man or a right to leave to enter or remain in the ~~United Kingdom~~ Isle of Man.~~”~~”.
16. ~~Schedule 2 (appeals to the First tier Tribunal)~~ continues to have effect with the modification that in paragraph 1, for the “EU Treaties” substitute “these Regulations, the EU withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens’ rights agreement”.
17. ~~Paragraph 1 of Schedule 7 (consequential modifications)~~ continues to have effect, as if references to “~~these Regulations~~” includes references to the EEA Regulations 2016 as modified by these Regulations.

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations apply the Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 to the Island as part of the law of the Island but subject to the exceptions, adaptations and modifications specified in the Schedule. The text of the applied legislation as applied is then set out in the Annex.

The effect of the applied legislation is to save and modify the Immigration (European Economic Area) Regulations 2019 ("EEA Regulations 2019") which make equivalent provision in the Island to that made in the UK by the Immigration (European Economic Area) Regulations 2016 ("the UK 2016 Regulations"). The UK 2016 Regulations ensure that decisions to deport certain EEA nationals and their family members who are protected by the EU Withdrawal Agreement, the EEA EFTA Separation Agreement or the Swiss Citizens' Rights Agreement (the "Agreements") or by the implementation of these Agreements can be made in accordance with Chapter VI of Directive 2004/38/EC, where that deportation is made on the basis of conduct committed before the end of the transition period provided for by the Agreements. Directive 2004/38/EC was implemented in the UK by the UK 2016 Regulations and the EEA Regulations 2019 make equivalent provision in the Island (albeit that the Directive does not apply automatically to the Island).

Regulation 2 of the applied legislation saves certain provisions within the EEA Regulations 2019, with the modifications specified in the Schedule insofar as they apply to certain persons in the Island who would be protected in the UK by the Agreements and certain persons who would not be protected by the Agreements but who have entry clearance or leave to enter or remain in the Isle of Man by virtue of the implementation of the Agreements in the UK and the making of the EEA Regulations 2019 in the Island. The Schedule to the applied legislation then identifies the provisions of the EEA Regulations 2019 that are saved and the modifications that apply. The savings ensure that the protections in the EEA Regulations 2019 relating to deportation that apply to EEA nationals and their family members continue, where appropriate, to apply thereby keeping Manx immigration law in line with that in the UK.