

2011 No. 544

IMMIGRATION

**The Accession (Immigration and Worker Registration)
(Revocation, Savings and Consequential Provisions)
Regulations 2011**

<i>Made</i> - - - -	<i>24th February 2011</i>
<i>Laid before Parliament</i>	<i>10th March 2011</i>
<i>Coming into force</i> - -	<i>1st May 2011</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the rights of entry into, and residence in, the United Kingdom and access to the labour market of the United Kingdom, in exercise of the powers conferred by that section, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Accession (Immigration and Worker Registration) (Revocation, Savings and Consequential Provisions) Regulations 2011 and shall come into force on 1st May 2011.

(2) In these Regulations—

“the 2004 Regulations” means the Accession (Immigration and Worker Registration) Regulations 2004(c);

“the 2006 Regulations” means the Immigration (European Economic Area) Regulations 2006(d).

Revocation of the 2004 Regulations

2. Subject to regulation 3, the 2004 Regulations are revoked.

Saving provisions

3.—(1) The 2004 Regulations shall continue to have effect as follows.

(2) Subject to paragraph 3, regulation 8 of the 2004 Regulations shall continue to have effect until 30th April 2012.

(a) S.I. 2000/813 in relation to measures relating to the rights of entry into, and residence in, the United Kingdom and S.I. 2004/706 in relation to measures relating to access to the labour market in the United Kingdom.

(b) 1972 c.68.

(c) S.I. 2004/1219 as amended by S.I. 2006/1003, S.I. 2006/3317, S.I. 2007/475, S.I. 2007/928, S.I. 2007/3012, S.I. 2009/892 and S.I. 2009/2426.

(d) S.I. 2006/1003 as amended by S.I. 2009/1117.

(3) For regulation 8(5)(a) of those Regulations, substitute “(a) was an accession State worker requiring registration at the date on which the applicant began working for that employer; and”.

(4) The 2004 Regulations shall continue to have effect to the extent necessary for the purposes of regulation 7A of the 2006 Regulations as inserted into the 2006 Regulations by regulation 5 of, and Schedule 2 to, these Regulations.

Revocation of other instruments

4. The Regulations listed in column 1 of the table in Schedule 1 are revoked to the extent set out in column 3 of that table.

Consequential amendments to the 2006 Regulations

5. The 2006 Regulations are amended as set out in Schedule 2.

Home Office
24th February 2011

Damian Green
Minister of State

SCHEDULE 1 Revocations

Regulation 4

Table of Revocations

<i>(1) Regulations revoked</i>	<i>(2) References</i>	<i>(3) Extent of revocation</i>
The Immigration (European Economic Area) Regulations 2006	S.I. 2006/1003	Paragraph 7 of Schedule 5
The Accession (Immigration and Worker Authorisation) Regulations 2006	S.I. 2006/3317	Paragraph 1 of Schedule 2
The Accession (Immigration and Worker Authorisation) (Amendment) Regulations 2007	S.I. 2007/475	Regulation 3
The Accession (Immigration and Worker Registration) (Amendment) Regulations 2007	S.I. 2007/928	The whole Regulations.
The Accession (Worker Authorisation and Worker Registration) (Amendment) Regulations 2007	S.I. 2007/3012	Regulation 3
The Accession (Immigration and Worker Registration) (Amendment) Regulations 2009	S.I. 2009/892	The whole Regulations.
The Accession (Worker Authorisation and Worker Registration) (Amendment) Regulations 2009	S.I. 2009/2426	Regulation 3

Amendments to the 2006 Regulations

1. In regulation 2(1), after ““the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;” insert—

““the Accession Regulations” means the Accession (Immigration and Worker Registration) Regulations 2004;”.

2. In regulation 5(7), for “For the purposes of this regulation—”, substitute “Subject to regulation 7A(3), for the purposes of this regulation—”.

3. In regulation 6(2), for “A person who is no longer working shall not cease to be treated as a worker for the purpose of paragraph (1)(b) if—”, substitute “Subject to regulation 7A(4), a person who is no longer working shall not cease to be treated as a worker for the purpose of paragraph (1)(b) if—”.

4. After regulation 7, insert—

“Application of the Accession Regulations

7A.—(1) This regulation applies to an EEA national who was an accession State worker requiring registration on 30th April 2011 (‘an accession worker’).

(2) In this regulation—

“accession State worker requiring registration” has the same meaning as in regulation 1(2)(d) of the Accession Regulations;

“legally working” has the same meaning as in regulation 2(7) of the Accession Regulations.

(3) In regulation 5(7)(c), where the worker is an accession worker, periods of involuntary unemployment duly recorded by the relevant employment office shall be treated only as periods of activity as a worker—

(a) during any period in which regulation 5(4) of the Accession Regulations applied to that person; or

(b) when the unemployment began on or after 1st May 2011.

(4) Regulation 6(2) applies to an accession worker where he—

(a) was a person to whom regulation 5(4) of the Accession Regulations applied on 30th April 2011; or

(b) became unable to work, became unemployed or ceased to work, as the case maybe, on or after 1st May 2011.

(5) For the purposes of regulation 15, an accession worker shall be treated as having resided in accordance with these Regulations during any period before 1st May 2011 in which the accession worker—

(a) was legally working in the United Kingdom; or

(b) was a person to whom regulation 5(4) of the Accession Regulations applied.

(6) Subject to paragraph (7), a registration certificate issued to an accession worker under regulation 8 of the Accession Regulations shall, from 1st May 2011, be treated as if it was a registration certificate issued under these Regulations where the accession worker was legally working in the United Kingdom for the employer specified in that certificate on—

(a) 30th April 2011; or

(b) the date on which the certificate is issued where it is issued after 30th April 2011.

(7) Paragraph (6) does not apply—

- (a) if the Secretary of State issues a registration certificate in accordance with regulation 16 to an accession worker on or after 1st May 2011; and
- (b) from the date of registration stated on that certificate.

5. For regulation 16(8), substitute “But this regulation is subject to regulations 7A(6) and 20(1).”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Accession (Immigration and Worker Registration) Regulations 2004 (“the 2004 Regulations”) which regulate access to the United Kingdom labour market by nationals of eight of the States that acceded to the European Union in 2004. These Regulations also make consequential savings and transitional provisions and amend the Immigration (European Economic Area) Regulations 2006 (“the 2006 Regulations”) which regulate the right of entry and residence in the United Kingdom of nationals of States of the European Economic Area and Switzerland.

Under the treaty signed at Athens on 16th April 2003 (“the Accession Treaty”), the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic acceded to the European Union on 1st May 2004. The Accession Treaty provides, in derogation from the general free movement of worker rights of European Union nationals, that the existing Member States can apply national measures regulating access to their labour market by nationals of the accession States (other than nationals of the Republic of Cyprus and the Republic of Malta) (“the accession States”). Under the Accession Treaty these national measures could be applied during the seven year period following the date of accession, that is, until 30th April 2011 (“the accession period”).

The 2004 Regulations contain the national measures applied by the United Kingdom to workers from the accession States in accordance with the derogation contained in the Accession Treaty. Regulation 2 of the 2004 Regulations defines a national of an accession State who works in the United Kingdom during the accession period as an “accession State worker requiring registration”. Regulation 7 of the 2004 Regulations provides that such a person is only permitted to work in the United Kingdom whilst working for an authorised employer and that, as set out in that regulation, a person is required to register this employment. Regulation 2(4) of the 2004 Regulations provides that such a person ceases to be an accession State worker requiring registration if he was legally working in the United Kingdom without interruption for a period of 12 months during the accession period. During that time, regulation 5(2) provided that the person would be treated as a worker for the purposes of the 2006 Regulations and those Regulations would apply accordingly.

Regulation 1 of these Regulations sets out how they should be referred to, when they come into force and defines the 2004 and 2006 Regulations. *Regulation 2* revokes the 2004 Regulations subject to the saving provisions set out in regulation 3 and *regulation 4* of, and *Schedule 1* to, these Regulations revoke part or all of the related, specified instruments to the extent set out. This gives effect to the ending of the accession period in accordance with the Accession Treaty.

Regulation 3 ensures that regulation 8 of the 2004 Regulations continues, with an amendment, for one year from the coming into force of these Regulations to enable the Secretary of State to continue to process applications for registration of employment made by a person who was an accession State national requiring registration on 30th April 2011 and who was working for the relevant employer at the date of application.

Following the revocation of the 2004 Regulations, a person who was an accession State worker requiring registration on 30th April 2011 will be entitled to reside in the United Kingdom in accordance with the 2006 Regulations. This is subject to the consequential amendments made to the 2006 Regulations provided by *regulation 5* of, and set out in *Schedule 2* to, these Regulations.

These amendments insert a new regulation 7A which makes provision for how residence by such a person in accordance with the 2004 Regulations should be treated for the purposes of residence under the 2006 Regulations. *Regulation 3(4)* provides that the provisions of the 2004 Regulations relied upon in the consequential amendments to the 2006 Regulations continue to apply to the extent necessary to give effect to the amendments.

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STATUTORY INSTRUMENTS

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£4.00