STATUTORY INSTRUMENTS

2014 No. 1451

IMMIGRATION

The Immigration (European Economic Area) (Amendment) Regulations 2014

Made - - - -	*4th June 2014*
Laid before Parliament	*6th June 2014*
Coming into force - -	*1st July 2014*

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 rights of entry into, and residence in, the United Kingdom, in exercise of the powers conferred by that section, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Immigration (European Economic Area) (Amendment) Regulations 2014 and come into force on 1st July 2014.

Interpretation

2. In these Regulations, "the 2006 Regulations" means the Immigration (European Economic Area) Regulations 2006(**c**).

Amendments to regulation 6 of the 2006 Regulations

3.—(1) Regulation 6 of the 2006 Regulations is amended as follows.

(2) In paragraph (4), for "A and B" substitute "A, B and, where relevant, C".

(3) In paragraph (7), for "six months" substitute "the relevant period".

(4) After paragraph (7), insert—

"(8) In paragraph (7), "the relevant period" means—

(a) in the case of a person retaining worker status pursuant to paragraph (2)(b), a continuous period of six months;

(b) in the case of a jobseeker, 182 days, minus the cumulative total of any days during which the person concerned previously enjoyed a right to reside as a jobseeker, not including any days prior to a continuous absence from the United Kingdom of at least 12 months.

(**a**) S.I. 2000/1813.
(**b**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51), and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
(**c**) S.I. 2006/1003; relevant amending instruments are S.I. 2011/544 and 2013/3032.

(9) Condition C applies where the person concerned has, previously, enjoyed a right to reside under this regulation as a result of satisfying conditions A and B—

(a) in the case of a person to whom paragraph (2)(b) or (ba) applied, for at least six months; or

(b) in the case of a jobseeker, for at least 182 days in total,

unless the person concerned has, since enjoying the above right to reside, been continuously absent from the United Kingdom for at least 12 months.

(10) Condition C is that the person has had a period of absence from the United Kingdom.

(11) Where condition C applies—

(a) paragraph (7) does not apply; and

(b) condition B has effect as if "compelling" were inserted before "evidence".".

Transitional provision

4. Any period after 31st December 2013 during which a person was a jobseeker for the purposes of regulation 6(1)(a) of the 2006 Regulations is, where relevant, to be taken into consideration when determining—

(a) the length of the relevant period; and

(b) whether condition C applies,

for the purposes of regulation 6 of the 2006 Regulations as amended by these Regulations.

Home Office
4th June 2014

James Brokenshire
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) ("the 2006 Regulations") in order to amend the transposition in the United Kingdom of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ No. L 158, 30.4.04, p77).

Regulation 3 of these Regulations amends regulation 6 of the 2006 Regulations to clarify the length of a period of residence as a "jobseeker" and the extent to which it is possible to enjoy repeat periods of residence as a jobseeker.

A new paragraph (8) in regulation 6 of the 2006 Regulations allows the six month period permitted by the Court of Justice in Case C-292/89 *Antonissen* for jobseekers to look for work in the host Member State to be split across multiple occasions, but not exceeded. There are no changes to the six month period during which a person is entitled to retain worker status pursuant to regulation 6 of the 2006 Regulations.

The effect of the new paragraphs (9) to (11) of regulation 6 of the 2006 Regulations is as follows. Where a jobseeker or retained worker has previously enjoyed a right to reside in that capacity for six months, it will only be possible to enjoy jobseeker status following a period of absence from the United Kingdom. A former jobseeker or retained worker who has been absent from the United Kingdom for less than 12 months may only enjoy a period of jobseeker status if they are able to provide compelling evidence of a genuine prospect of engagement from the outset. A former jobseeker or retained worker who has been continuously absent from the United Kingdom for more than 12 months will be able to enjoy a fresh period of residence as a jobseeker without being subject to the "compelling evidence" from the outset.

Regulation 4 contains transitional provision. Periods of time spent as a jobseeker after 31st December 2013 will be considered for the purposes of the changes made by these Regulations.

An impact assessment has not been produced for these Regulations as no impact on business, charities, voluntary bodies or the public sector is foreseen.

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