

**EXPLANATORY MEMORANDUM TO**  
**THE ACCESSION (WORKER AUTHORISATION AND WORKER**  
**REGISTRATION (AMENDMENT) REGULATIONS 2007**

**2007 No. 3012**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

These Regulations amend the Accession (Immigration and Worker Authorisation) Regulations 2006 to allow certain categories of Romanian and Bulgarian nationals to work without requiring authorisation under the 2006 Regulations. Similar changes are made to the Accession (Immigration and Worker Registration) Regulations 2004 exempting workers from the 2004 accession States from the need to register under the 2004 Regulations. These changes are required to make the 2004 and 2006 Regulations compatible with European Community law.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 The Accession (Immigration and Worker Authorisation) Regulations 2006 require Bulgarian and Romanian nationals to acquire authorisation in order to work in the United Kingdom unless they fall within one of the exempt categories of worker set out in regulation 2 of the Regulations. This restriction on access to the United Kingdom labour market is imposed pursuant to a derogation from the normal European Community rules on the free movement of workers. The derogation is set out in the Accession Treaty for Bulgaria and Romania (signed in Luxembourg on 25 April 2005).

4.2 Regulation 2 of the 2006 Regulations does not exempt from the need for authorisation the Bulgarian and Romanian family members of Bulgarian and Romanian self employed and self sufficient persons and students. This is contrary to the derogation in the 2005 Accession Treaty, which does not provide for restrictions to be imposed on such family members. In accordance with the derogation regulation 2 should

also have exempted those Bulgarian and Romanian nationals who are members of a diplomatic mission, the family members of such a person or who are otherwise entitled to diplomatic immunity. These Regulations amend regulation 2 of the 2006 Regulations to exempt these categories of Bulgarian and Romanian nationals from the need for worker authorisation. They also update the definition of “highly skilled person” in the 2006 Regulations. Bulgarian and Romanian nationals who fall within this definition are exempt from the need for worker authorisation. The definition is being updated to ensure that Bulgarian and Romanian nationals benefit from changes made to corresponding provisions in the Immigration Rules.

- 4.3 The Accession (Immigration and Worker Registration) Regulations 2004 require workers from the 2004 accession States (other than from Cyprus and Malta) – the “relevant accession States” – to register unless they fall within one of the exempt categories of worker set out in regulation 2 of the Regulations. This restriction on access to the United Kingdom labour market is imposed pursuant to a derogation set out in the Accession Treaty for those States (signed in Athens on 16<sup>th</sup> April 2003). Regulation 2 of the 2004 Regulations is being amended to exempt relevant accession State nationals who are family members of Bulgarian and Romanian self employed and self sufficient persons and students from the need to register under the 2004 Regulations. And relevant accession State nationals who are members of a diplomatic mission, the family members of such a person or are otherwise entitled to diplomatic immunity are also exempted from the need to register. These changes will bring the 2004 Regulations into line with the derogation in the 2003 Accession Treaty.

## **5. Extent**

- 5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 As explained above, these Regulations amend the Accession (Immigration and Worker Authorisation) Regulations 2006 and the Accession (Immigration and Worker Registration) Regulations 2004 in order to make them compatible with European Community law. The effect of these amendments will be to extend the categories of nationals from the 2004 and 2006 accession States who have unrestricted access to the United Kingdom labour market.

Guidance on the effect of these changes will be placed on the Home Office's website.

**8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

**9. Contact**

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