
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make three changes to the Immigration (European Economic Area) Regulations 2000 (S.I. 2000/2326 as amended) (the “2000 Regulations”).

Regulation 2(2) removes the existing provision in the 2000 Regulations which states that the family member of a United Kingdom national who moves to another Member State and subsequently returns to the United Kingdom may not gain rights of residence and entry to the United Kingdom under the 2000 Regulations if the United Kingdom national left the United Kingdom in order for his family member to acquire rights under the 2000 Regulations. A new provision is substituted which provides that the family member of a United Kingdom national who moves to another Member State and returns to the United Kingdom must be lawfully resident in an EEA State if he is to gain rights of entry to and residence in the United Kingdom. These changes reflect the judgment of the European Court of Justice in the case of *Akrich* (Case C-109/01).

Regulation 2(3) changes the period within which the family member of an EEA national must intend to travel to the United Kingdom with the EEA national, in order to qualify for a family permit, from one year of the date of the application to six months.

Regulation 2(4) provides that a person who applies for a family permit in an EEA State must be lawfully resident in an EEA State in order to qualify. This change also reflects the judgment of the European Court of Justice in *Akrich*.

Regulation 2(5) removes regulation 30(3)(a) of the 2000 Regulations so that a person appealing to the Special Immigration Appeals Commission under the 2000 Regulations does not automatically have the right to appeal whilst he is in the United Kingdom. Whether or not an appellant can appeal in the United Kingdom will now depend on the nature of the appeal. This brings the 2000 Regulations into line with the rule set out for other appeals in section 2(5) of the Special Immigration Appeals Commission Act 1997.

Regulation 3 makes transitional provision, ensuring that the changes only take effect in relation to applications and appeals made after these Regulations come into force.