

SCHEDULE

Amendments to the Immigration (European Economic Area) Regulations 2006

Regulation 15A (derivative right of residence)

3. In regulation 15A—
- (a) in paragraph (1)—
 - (i) for the words “entitled to reside in the United Kingdom as a result of any other provision of these Regulations” substitute “ an exempt person ”;
 - (ii) after “paragraph (2), (3), (4)” insert “ , (4A) ”;
 - (b) after paragraph (4) insert—

“(4A) P satisfies the criteria in this paragraph if—

 - (a) P is the primary carer of a British citizen (“the relevant British citizen”);
 - (b) the relevant British citizen is residing in the United Kingdom; and
 - (c) the relevant British citizen would be unable to reside in the UK or in another EEA State if P were required to leave.”;
 - (c) in paragraph (6)—
 - (i) at the end of subparagraph (a) delete the word “and”;
 - (ii) at the end of subparagraph (b) for “regulation 6(2).” substitute “ regulation 6(2); and ”; and then insert—
 - “(c) “an exempt person” is a person—
 - (i) who has a right to reside in the United Kingdom as a result of any other provision of these Regulations;
 - (ii) who has a right of abode in the United Kingdom by virtue of section 2 of the 1971 Act;
 - (iii) to whom section 8 of the 1971 Act, or any order made under subsection (2) of that provision, applies; or
 - (iv) who has indefinite leave to enter or remain in the United Kingdom.”;
 - (d) for paragraph (7)(b)(ii) substitute—

“(ii) shares equally the responsibility for that person's care with one other person who is not an exempt person.”;
 - (e) after paragraph (7) insert—

“(7A) Where P is to be regarded as a primary carer of another person by virtue of paragraph (7)(b)(ii) the criteria in paragraphs (2)(b)(iii), (4)(b) and (4A)(c) shall be considered on the basis that both P and the person with whom care responsibility is shared would be required to leave the United Kingdom.

(7B) Paragraph (7A) does not apply if the person with whom care responsibility is shared acquired a derivative right to reside in the United Kingdom as a result of this regulation prior to P assuming equal care responsibility.”; and
 - (f) in paragraph (9) after “paragraph (2), (3), (4)” insert “ , (4A) ”.

Changes to legislation:

There are currently no known outstanding effects for the The Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2012, Paragraph 3.