STATUTORY INSTRUMENTS

2016 No. 1052

The Immigration (European Economic Area) Regulations 2016

[F1PART 1

PRELIMINARY

[F1General interpretation

2.—(1) In these Regulations—

"the 1971 Act" means the Immigration Act 1971(**1**);

"the 1999 Act" means the Immigration and Asylum Act 1999(**2**);

"the 2002 Act" means the Nationality, Immigration and Asylum Act 2002;

"the 2006 Regulations" means the Immigration (European Economic Area) Regulations 2006(**3**);

[F2"the 2016 Act" means the Immigration Act 2016;**]**

"civil partner" does not include—

(a) a party to a civil partnership of convenience; or

(b) the civil partner ("C") of a person ("P") where a spouse, civil partner or durable partner of C or P is already present in the United Kingdom;

"civil partnership of convenience" includes a civil partnership entered into for the purpose of using these Regulations, or any other right conferred by the EU Treaties, as a means to circumvent—

(a) immigration rules applying to non-EEA nationals (such as any applicable requirement under the 1971 Act to have leave to enter or remain in the United Kingdom); or

(b) any other criteria that the party to the civil partnership of convenience would otherwise have to meet in order to enjoy a right to reside under these Regulations or the EU Treaties;

"Common Travel Area" has the meaning given in section 1(3) of the 1971 Act;

"decision maker" means the Secretary of State, an immigration officer or an entry clearance officer (as the case may be);

"deportation order" means an order made under regulation 32(3);

"derivative residence card" means a card issued to a person under regulation 20;

"derivative right to reside" means a right to reside under regulation 16;

"document certifying permanent residence" means a document issued under regulation 19(1);

"durable partner" does not include—

(**1**) 1971 c. 77.
(**2**) 1999 c. 33.
(**3**) S.I. 2006/1003 as amended by the Immigration Act 2014 (c. 22), Schedule 1, paragraph 2(5), and S.I. 2006/3317, 2009/1117, 2010/21, 708, 1593, 2011/544, 1247, 2012/1547, 1809, 2560, 2013/1391, 1460, 3032, 2014/1451, 1976, 2761, and 2015/694.

(a) a party to a durable partnership of convenience; or

(b) the durable partner ("D") of a person ("P") where a spouse, civil partner or durable partner of D or P is already present in the United Kingdom and where that marriage, civil partnership or durable partnership is subsisting;

"durable partnership of convenience" includes a durable partnership entered into for the purpose of using these Regulations, or any other right conferred by the EU Treaties, as a means to circumvent—

(a) immigration rules applying to non-EEA nationals (such as any applicable requirement under the 1971 Act to have leave to enter or remain in the United Kingdom); or

(b) any other criteria that the party to the durable partnership of convenience would otherwise have to meet in order to enjoy a right to reside under these Regulations or the EU Treaties;

"EEA decision" means a decision under these Regulations that concerns—

(a) a person's entitlement to be admitted to the United Kingdom;

(b) a person's entitlement to be issued with or have renewed, or not to have revoked, **[**[F3]an EEA family permit,**]** a registration certificate, residence card, derivative residence card, document certifying permanent residence or permanent residence card (but does not include **[**[F4]a decision to reject an application for the above documentation as invalid**]**);

(c) a person's removal from the United Kingdom; or

(d) the cancellation, under regulation 25, of a person's right to reside in the United Kingdom,

but does not include [F5]... a decision to **[**[F6]refuse**]** an application under regulation 26(4) (misuse of a right to reside: material change of circumstances), or any decisions under regulation 33 (human rights considerations and interim orders to suspend removal) or 41 (temporary admission to submit case in person);

"EEA family permit" means a document issued under regulation 12;

[[F7]"EEA national" means—

(a) a national of an EEA State who is not also a British citizen; or

(b) a national of an EEA State who is also a British citizen and who prior to acquiring British citizenship exercised a right to reside as such a national, in accordance with regulation 14 or 15,

save that a person does not fall within paragraph (b) if the EEA State of which they are a national became a member State after that person acquired British citizenship.**]**

"EEA State" means—

(a) a member State, other than the United Kingdom; or

(b) Liechtenstein, Iceland, Norway or Switzerland;

"entry clearance" has the meaning given in section 33(1) of the 1971 Act(**4**);

"entry clearance officer" means a person responsible for the grant or refusal of entry clearance;

"exclusion order" means an order made under regulation 23(5);

"indefinite leave", "immigration laws" and "immigration rules" have the meanings given in section 33(1) of the 1971 Act;

"marriage of convenience" includes a marriage entered into for the purpose of using these Regulations, or any other right conferred by the EU Treaties, as a means to circumvent—

(**4**) The relevant part of section 33(1) was amended by the British Nationality Act 1981(c. 61), Schedule 4, paragraph 2, and the Immigration Act 1988 (c. 14), the Schedule, paragraph 5.

(a) immigration rules applying to non-EEA nationals (such as any applicable requirement under the 1971 Act to have leave to enter or remain in the United Kingdom); or

(b) any other criteria that the party to the marriage of convenience would otherwise have to meet in order to enjoy a right to reside under these Regulations or the EU Treaties;

"military service" means service in the armed forces of an EEA State;

"permanent residence card" means a document issued under regulation 19(2);

"qualifying EEA State residence card" means a valid document called a "Residence card of a family member of a Union Citizen" issued under Article 10 of Council Directive 2004/38/EC(**5**) (as applied, where relevant, by the EEA agreement) by any EEA State (except Switzerland) to a non-EEA family member of an EEA national as proof of the holder's right of residence in that State;

"registration certificate" means a certificate issued under regulation 17;

"relevant EEA national" in relation to an extended family member has the meaning given in regulation 8(6);

"residence card" means a card issued under regulation 18;

"right to reside" means a right to reside in the United Kingdom under these Regulations (or where so specified, a right to reside under a particular regulation);

"spouse" does not include—

(a) a party to a marriage of convenience; or

(b) the spouse ("S") of a person ("P") where a spouse, civil partner or durable partner of S or P is already present in the United Kingdom.

(2) Section 11 of the 1971 Act (construction of references to entry)(**6**) applies for the purpose of determining whether a person has entered the United Kingdom for the purpose of these Regulations as it applies for the purpose of determining whether a person has entered the United Kingdom for the purpose of that Act.**]**

Textual Amendments

F1 Regulations revoked (31.12.2020) by Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), s. 9(1), Sch. 1 para. 2(2) (with s. 4(2)); S.I. 2020/1279, **reg. 4(c)** (with savings and modifications in: S.I. 2020/1209, regs. 3(1)(2), **4(1)-(3)**, 5-10 in relation to a relevant person for the purposes of final determination of applications during the grace period; S.I. 2020/1210, reg. 2, **Sch.** for the purpose of removing a person who is protected by the citizens' rights provisions; S.I. 2020/1309, **Sch. 3 paras. 1-6** in relation to deportation and exclusion orders, pending applications for documentation and existing appeal rights and appeals; and S.I. 2020/1309, Sch. 4 paras. 1, 2, **4** in relation to access to benefits and services for persons who are members of the post-transition period group)

F2 Words in reg. 2 inserted (15.1.2018) by The Immigration Act 2016 (Consequential Amendments) (Immigration Bail) Regulations 2017 (S.I. 2017/1242), reg. 1, **Sch. para. 8(2)**

F3 Words in reg. 2(1) inserted (15.8.2019) by The Immigration (European Economic Area) (Amendment) Regulations 2019 (S.I. 2019/1155), regs. 1, **2(2)(a)(i)**

F4 Words in reg. 2(1) substituted (15.8.2019) by The Immigration (European Economic Area) (Amendment) Regulations 2019 (S.I. 2019/1155), regs. 1, **2(2)(a)(ii)**

F5 Words in reg. 2(1) omitted (28.3.2019) by virtue of The Immigration (European Economic Area Nationals) (EU Exit) Regulations 2019 (S.I. 2019/468), regs. 1(2), **3(2)**

(**5**) OJ No L 158, 30.4.04, p98.

(**6**) Section 11 was amended by the 2002 Act, section 62(8), and S.I 1993/1813 and 2003/1016.

F6 Word in reg. 2(1) substituted (15.8.2019) by The Immigration (European Economic Area) (Amendment) Regulations 2019 (S.I. 2019/1155), regs. 1, **2(2)(b)**

F7 Words in reg. 2(1) substituted (24.7.2018) by The Immigration (European Economic Area) (Amendment) Regulations 2018 (S.I. 2018/801), reg. 1(2), **Sch. para. 1**

Modifications etc. (not altering text)

C1 Reg. 2 continued (with modifications) (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), **Sch. 3 paras. 4-6**

C2 Reg. 2 continued (with modifications) (31.12.2020) by The Citizens' Rights (Restrictions of Rights of Entry and Residence) (EU Exit) Regulations 2020 (S.I. 2020/1210), regs. 1(1), 2, **Sch. para. 2**

C3 Reg. 2 continued (with modifications) (31.12.2020) by The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (S.I. 2020/1209), regs. 1(1), **3(1)**(2), 4(1)-(3), 5

C4 Reg. 2 continued (with modifications) (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), reg. 1(2), Sch. 4 paras. 1, 2, **4** (as amended (2.2.2023) by The Immigration (Restrictions on Employment etc.) (Amendment) (EU Exit) Regulations 2023 (S.I. 2023/12), **reg. 5(2)(a)**)

Changes to legislation:
There are currently no known outstanding effects for the The Immigration (European Economic Area) Regulations 2016, Section 2.