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STATUTORY INSTRUMENTS

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**2016 No. 1052**

**The Immigration (European Economic Area) Regulations 2016**

**PART 1**

**PRELIMINARY**

**Family members of British citizens**

**9.**—(1) If the conditions in paragraph (2) are satisfied, these Regulations apply to a person who is the family member (“F”) of a British citizen (“BC”) as though the BC were an EEA national.

(2) The conditions are that—

(a) BC—

(i) is residing in an EEA State as a worker, self-employed person, self-sufficient person or a student, or so resided immediately before returning to the United Kingdom; or

(ii) has acquired the right of permanent residence in an EEA State;

(b) F and BC resided together in the EEA State; and

(c) F and BC’s residence in the EEA State was genuine.

(3) Factors relevant to whether residence in the EEA State is or was genuine include—

(a) whether the centre of BC’s life transferred to the EEA State;

(b) the length of F and BC’s joint residence in the EEA State;

(c) the nature and quality of the F and BC’s accommodation in the EEA State, and whether it is or was BC’s principal residence;

(d) the degree of F and BC’s integration in the EEA State;

(e) whether F’s first lawful residence in the EU with BC was in the EEA State.

(4) This regulation does not apply—

(a) where the purpose of the residence in the EEA State was as a means for circumventing any immigration laws applying to non-EEA nationals to which F would otherwise be subject (such as any applicable requirement under the 1971 Act to have leave to enter or remain in the United Kingdom); or

(b) to a person who is only eligible to be treated as a family member as a result of regulation 7(3) (extended family members treated as family members).

(5) Where these Regulations apply to F, BC is to be treated as holding a valid passport issued by an EEA State for the purposes of the application of these Regulations to F.

(6) In paragraph (2)(a)(ii), BC is only to be treated as having acquired the right of permanent residence in the EEA State if such residence would have led to the acquisition of that right under regulation 15, had it taken place in the United Kingdom.

(7) For the purposes of determining whether, when treating the BC as an EEA national under these Regulations in accordance with paragraph (1), BC would be a qualified person—

- (a) any requirement to have comprehensive sickness insurance cover in the United Kingdom still applies, save that it does not require the cover to extend to BC;
- (b) in assessing whether BC can continue to be treated as a worker under regulation 6(2)(b) or (c), BC is not required to satisfy condition A;
- (c) in assessing whether BC can be treated as a jobseeker as defined in regulation 6(1), BC is not required to satisfy conditions A and, where it would otherwise be relevant, condition C.