

Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance)

## CHAPTER I

### General provisions

#### *Article 1*

#### **Subject**

This Directive lays down:

- (a) the conditions governing the exercise of the right of free movement and residence within the territory of the Member States by Union citizens and their family members;
- (b) the right of permanent residence in the territory of the Member States for Union citizens and their family members;
- (c) the limits placed on the rights set out in (a) and (b) on grounds of public policy, public security or public health.

#### *Article 2*

#### **Definitions**

For the purposes of this Directive:

- 1) "Union citizen" means any person having the nationality of a Member State;
- 2) "Family member" means:
  - (a) the spouse;
  - (b) the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State;
  - (c) the direct descendants who are under the age of 21 or are dependants and those of the spouse or partner as defined in point (b);
  - (d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (b);
- 3) "Host Member State" means the Member State to which a Union citizen moves in order to exercise his/her right of free movement and residence.

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*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

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### *Article 3*

#### **Beneficiaries**

1 This Directive shall apply to all Union citizens who move to or reside in a Member State other than that of which they are a national, and to their family members as defined in point 2 of Article 2 who accompany or join them.

2 Without prejudice to any right to free movement and residence the persons concerned may have in their own right, the host Member State shall, in accordance with its national legislation, facilitate entry and residence for the following persons:

- a any other family members, irrespective of their nationality, not falling under the definition in point 2 of Article 2 who, in the country from which they have come, are dependants or members of the household of the Union citizen having the primary right of residence, or where serious health grounds strictly require the personal care of the family member by the Union citizen;
- b the partner with whom the Union citizen has a durable relationship, duly attested.

The host Member State shall undertake an extensive examination of the personal circumstances and shall justify any denial of entry or residence to these people.