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STATUTORY INSTRUMENTS

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**2016 No. 1052**

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

**PART 6**

**APPEALS UNDER THESE REGULATIONS**

**Appeal rights**

**36.**—(1) The subject of an EEA decision may appeal against that decision under these Regulations.

(2) If a person claims to be an EEA national, that person may not appeal under these Regulations without producing a valid national identity card or passport issued by an EEA State.

(3) If a person claims to be in a durable relationship with an EEA national, that person may not appeal under these Regulations without producing—

- (a) a valid passport; and
- (b) either—
  - (i) an EEA family permit; or
  - (ii) sufficient evidence to satisfy the Secretary of State that the person is in a relationship with the EEA national.

(4) If a person to whom paragraph (2) does not apply claims to be the family member of an EEA national under regulation 7, the relative of an EEA national who is an extended family member under regulation 8, or a family member who has retained the right of residence under regulation 10, that person may not appeal under these Regulations without producing—

- (a) a valid passport; and
- (b) either—
  - (i) an EEA family permit
  - (ii) a qualifying EEA State residence card;
  - (iii) in the case of a person claiming to be the family member of an EEA national, proof that the criteria in regulation 7 are met; or
  - (iv) in the case of a person claiming to be a family member who has retained the right of residence, proof that the criteria in regulation 10 are met.

(5) If a person (“P”) claims to have a derivative right to reside, P may not appeal under these Regulations unless P produces a valid national identity card issued by an EEA State or a valid passport, and either—

- (a) an EEA family permit; or
- (b) where P claims to have a derivative right to reside as a result of—
  - (i) regulation 16(2), proof that P is a direct relative or legal guardian of an EEA national who is under the age of 18;
  - (ii) regulation 16(3), proof that P is the child of an EEA national;

- (iii) regulation 16(4), proof that P is a direct relative or legal guardian of the child of an EEA national;
- (iv) regulation 16(5), proof that P is a direct relative or legal guardian of a British citizen;
- (v) regulation 16(6), proof that P is under the age of 18 and is a dependant of a person satisfying the criteria in paragraph (i), (iii) or (iv).

(6) If a person claims to be entitled to a right to reside under regulation 9 (family members of British citizens), that person may not appeal without producing a valid passport and either—

- (a) an EEA family permit; or
- (b) a qualifying EEA State residence card; and
  - (i) proof that the criteria to be a family member of the British citizen are met; and
  - (ii) proof that the British citizen is residing, or did reside, in another EEA State as a worker, self-employed person, self-sufficient person or student.

(7) The Secretary of State or an immigration officer may certify a ground for the purposes of paragraph (8) if it has been considered in a previous appeal brought under these Regulations or under section 82(1) of the 2002 Act<sup>(1)</sup>.

(8) A person may not bring an appeal under these Regulations on a ground certified under paragraph (7) or rely on such a ground in an appeal brought under these Regulations.

(9) Except where an appeal lies to the Commission, an appeal under these Regulations lies to the First-tier Tribunal.

(10) The provisions of, or made under, the 2002 Act referred to in Schedule 2 have effect for the purposes of an appeal under these Regulations to the First-tier Tribunal in accordance with that Schedule.

(11) Nothing in this Part prevents a person who has a right of appeal under this regulation from appealing to the First-tier Tribunal under section 82(1) of the 2002 Act (right of appeal to the Tribunal), or, where relevant, to the Commission pursuant to section 2 of the 1997 Act (jurisdiction of the Commission: appeals)<sup>(2)</sup>, provided the criteria for bringing such an appeal under those Acts are met.

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<sup>(1)</sup> Section 82(1) was amended by the Immigration Act 2014, section 15.

<sup>(2)</sup> Section 2 was amended by the 2002 Act, Schedule 7, paragraph 20, the Immigration, Asylum and Nationality Act 2006, Schedule 1, paragraph 14, and the Immigration Act 2014, Schedule 9, paragraph 26.