
STATUTORY INSTRUMENTS

2019 No. 468

The Immigration (European Economic Area Nationals) (EU Exit) Regulations 2019

PART 3

Amendments to the Immigration (European Economic Area) Regulations 2016

Amendments to the Immigration (European Economic Area) Regulations 2016

3.—(1) The Immigration (European Economic Area) Regulations 2016(1) are amended as follows.

(2) In regulation 2(1) (general interpretation), in the definition of “EEA decision”, in the words following sub-paragraph (d), omit “a decision to refuse to issue a document under regulation 12(4) (issue of an EEA family permit to an extended family member), 17(5) (issue of a registration certificate to an extended family member), or 18(4) (issue of a residence card to an extended family member)”.

(3) In regulation 7(4) (family member), after “family members”, insert “and extended family members”.

(4) In the heading of regulation 9 (family members of British citizens), after “family members”, insert “and extended family members”.

(5) In regulation 9—

(a) after paragraph (1) insert—

“(1A) These Regulations apply to a person who is the extended family member (“EFM”) of a BC as though the BC were an EEA national if—

(a) the conditions in paragraph (2) are satisfied; and

(b) the EFM was lawfully resident in the EEA State referred to in paragraph (2)(a) (i).”;

(b) in paragraph (2)—

(i) in sub-paragraph (b), after “F”, insert “or EFM”;

(ii) in sub-paragraph (c), after “F”, insert “or EFM”;

(iii) in sub-paragraph (d), after “family member of BC” insert “or EFM was an extended family member of BC”;

(iv) in sub-paragraph (e), omit “their” and insert “F or EFM and BC’s”;

(c) in paragraph (3)—

(i) in sub-paragraph (b), after “F”, insert “or EFM”;

(ii) in sub-paragraph (c), after “F”, insert “or EFM”;

- (iii) in sub-paragraph (d), after “F”, insert “or EFM”;
- (iv) in sub-paragraph (e), after “F’s”, insert “or EFM’s”;
- (d) in paragraph (4)—
 - (i) in sub-paragraph (a)—
 - (aa) after “F”, insert “or EFM”;
 - (bb) omit “or” at the end of the sub-paragraph;
 - (ii) omit sub-paragraph (b);
- (e) in paragraph (5), in both places, after “F” insert “or EFM”.
- (6) In regulation 16 (derivative right to reside)—
 - (a) in paragraph (6)(b), after “under the 1971 Act” insert “(but see paragraph (7A))”;
 - (b) in paragraph (7)(c)(iv), after “in the United Kingdom” insert “(but see paragraph (7A))”;
 - (c) after paragraph (7) insert—
 - “(7A) Leave to enter, or remain in, the United Kingdom under the 1971 Act which has been granted by virtue of Appendix EU to the immigration rules is not to be treated as leave for the purposes of paragraph (6)(b) or (7)(c)(iv).”.
- (7) In regulation 36(6) (appeal rights)—
 - (a) after “family members”, insert “or extended family members”;
 - (b) in sub-paragraph (b), before “a qualifying EEA State residence card”, insert “in respect of a family member.”;
 - (c) after sub-paragraph (b) insert—
 - “(c) in respect of an extended family member—
 - (i) an EEA family permit; or
 - (ii) proof that—
 - (aa) the condition in regulation 9(1A)(b) is met;
 - (bb) the criteria to be a family member of the British citizen are met, and
 - (cc) the British citizen is residing, or did reside, in another EEA State as a worker, self-employed person, self-sufficient person or a student.”.

Transitional provision

4. In any decision made after the day on which regulation 3 comes into force as to whether a person satisfies the conditions in regulation 9(2) of the Immigration (European Economic Area) Regulations 2016 (family members and extended family members), the amendments made by regulation 3(4) and (5) are to be treated as if they had been in force at all times relevant to such a decision.