

SCHEDULE

Regulation 2

Amendments to the Immigration (European Economic Area) Regulations 2006

**Regulation 8 (“Extended family member”)**

1. In regulation 8(2)(a) omit the words “in which the EEA national also resides”.

**Regulation 11 (right of admission to the United Kingdom)**

2. In regulation 11—
  - (a) at the end of paragraph (5)(c)(ii) for “United Kingdom.” substitute “United Kingdom.”;
  - (b) at the end of paragraph (5)(d)(ii) for “person there.” substitute “person there; or” and then insert—
    - “(e) P is accompanying a British citizen to, or joining a British citizen in, the United Kingdom and P would be entitled to reside in the United Kingdom pursuant to regulation 15A(4A) were P and the British citizen both in the United Kingdom.”;
  - (c) in paragraphs (6)(a) and (7) for “paragraph (5)(b) or (c)” substitute “paragraph (5)(b), (c) or (e)”;
  - (d) in paragraph (7)(b) for “regulation 15A(2) or (4)” substitute “regulation 15A(2), (4) or (4A)”.

**Regulation 15A (derivative right of residence)**

3. In regulation 15A—
  - (a) in paragraph (1)—
    - (i) for the words “entitled to reside in the United Kingdom as a result of any other provision of these Regulations” substitute “an exempt person”;
    - (ii) after “paragraph (2), (3), (4)” insert “, (4A)”;
  - (b) after paragraph (4) insert—
    - “(4A) P satisfies the criteria in this paragraph if—
      - (a) P is the primary carer of a British citizen (“the relevant British citizen”);
      - (b) the relevant British citizen is residing in the United Kingdom; and
      - (c) the relevant British citizen would be unable to reside in the UK or in another EEA State if P were required to leave.”;
  - (c) in paragraph (6)—
    - (i) at the end of subparagraph (a) delete the word “and”;
    - (ii) at the end of subparagraph (b) for “regulation 6(2).” substitute “regulation 6(2); and”;
    - and then insert—
      - “(c) “an exempt person” is a person—
        - (i) who has a right to reside in the United Kingdom as a result of any other provision of these Regulations;
        - (ii) who has a right of abode in the United Kingdom by virtue of section 2 of the 1971 Act;
        - (iii) to whom section 8 of the 1971 Act, or any order made under subsection (2) of that provision, applies; or

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- (iv) who has indefinite leave to enter or remain in the United Kingdom.”;
- (d) for paragraph (7)(b)(ii) substitute—
  - “(ii) shares equally the responsibility for that person’s care with one other person who is not an exempt person.”;
- (e) after paragraph (7) insert—
  - “(7A) Where P is to be regarded as a primary carer of another person by virtue of paragraph (7)(b)(ii) the criteria in paragraphs (2)(b)(iii), (4)(b) and (4A)(c) shall be considered on the basis that both P and the person with whom care responsibility is shared would be required to leave the United Kingdom.
  - (7B) Paragraph (7A) does not apply if the person with whom care responsibility is shared acquired a derivative right to reside in the United Kingdom as a result of this regulation prior to P assuming equal care responsibility.”; and
- (f) in paragraph (9) after “paragraph (2), (3), (4)” insert “, (4A)”.

**Regulation 21A (application of Part 4 to persons with a derivative right of residence)**

- 4. In regulation 21A(2)(a) after “regulation 15A(2), (4)” insert “, (4A)”.

**Regulation 26 (appeal rights)**

- 5. In regulation 26—
  - (a) after paragraph (2) insert—
    - “(2A) If a person claims to be in a durable relationship with an EEA national he may not appeal under these Regulations unless he produces—
      - (a) a passport; and
      - (b) either—
        - (i) an EEA family permit; or
        - (ii) sufficient evidence to satisfy the Secretary of State that he is in a relationship with that EEA national.”;
  - (b) in paragraph (3) after “If a person” insert “to whom paragraph (2) does not apply”;
  - (c) in paragraph (3)(a) omit “a valid national identity card issued by an EEA State or”;
  - (d) in paragraph (3A) after “right of” insert “entry or”;
  - (e) in paragraph (3A)(b) for the references to “a derivative right of residence under” substitute “a derivative right of entry or residence as a result of”; and
  - (f) at the end of paragraph (3A)(b)(iv) for “(i) or (iii).” substitute “(i) or (iii);” and then insert—
    - “(v) where the person claims to have a derivative right of entry or residence as a result of regulation 15A(4A), he is a direct relative or guardian of a British citizen.”.

**New regulation 29A (alternative evidence of identity and nationality)**

- 6. Before regulation 30 insert—

**“Alternative evidence of identity and nationality**

**29A.**—(1) Subject to paragraph (2), where a provision of these Regulations requires a person to hold or produce a valid identity card issued by an EEA State or a valid passport the Secretary of State may accept alternative evidence of identity and nationality where the person is unable to obtain or produce the required document due to circumstances beyond his or her control.

(2) This regulation does not apply to regulation 11.”

**References to “United Kingdom national”**

7.—(1) In regulation 2(1) delete the definition of “United Kingdom national”.

(2) For the references to “United Kingdom national” in regulations 2(1), 4(4)(a), 5(6) and 9 substitute references to “British citizen”.