

Statutory Document No. 2019/0247



European Communities (Isle of Man) Act 1973
Nationality, Immigration and Asylum Act 2002

IMMIGRATION (EUROPEAN ECONOMIC AREA) (AMENDMENT) REGULATIONS 2019

Laid before Tynwald: 16 July 2019
Coming into operation in accordance with regulation 2

The Council of Ministers makes the following Regulations in exercise of the powers conferred by section 2B of the European Communities (Isle of Man) Act 1973¹ in relation to measures relating to rights of entry into, and residence in, the Isle of Man in exercise of the powers conferred by that section.

The Cabinet Office makes the following Regulations in exercise of the powers conferred by section 109 of the Nationality, Immigration and Asylum Act 2002² (of Parliament) as that Act has effect in the Isle of Man³.

1 Title

These Regulations are the Immigration (European Economic Area) (Amendment) Regulations 2019.

2 Commencement

These Regulations come into operation on the day after they are made.

3 Amendments to the Immigration (European Economic Area) Regulations 2019

- (1) The Immigration (European Economic Area) Regulations 2019⁴ are amended as follows.
- (2) In regulation 3(3) (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 14(4) (issue of an EEA family permit to an extended family member) or 19(3) (issue of a

¹ AT 14 of 1973

² 2002 c.41

³ S.I. No. 2008/680

⁴ SD No. 2019/0132

document certifying an extended right of residence to an extended family member),”.

- (3) In regulation 8(4) (family member), after “family members”, insert **66** and extended family members **67**.
- (4) In the heading of regulation 10 (family members of British citizens), after “family members”, insert **66** and extended family members **67**.
- (5) In regulation 10 –
 - (a) after paragraph (1) insert –

66(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). **67**;
 - (b) in paragraph (2) –
 - (i) in sub-paragraph (b), after “F”, insert **66** or EFM **67**;
 - (ii) in sub-paragraph (c), after “F”, insert **66** or EFM **67**;
 - (iii) in sub-paragraph (d), after “family member of BC” insert **66** or EFM was an extended family member of BC **67**;
 - (iv) in sub-paragraph (e), omit “their” and insert **66** F or EFM and BC’s **67**;
 - (c) in paragraph (3) –
 - (i) in sub-paragraph (b), after “F”, insert **66** or EFM **67**;
 - (ii) in sub-paragraph (c), after “F”, insert **66** or EFM **67**;
 - (iii) in sub-paragraph (d), after “F”, insert **66** or EFM **67**;
 - (iv) in sub-paragraph (e), after “F’s”, insert **66** or EFM’s **67**;
 - (d) in paragraph (4) –
 - (i) in sub-paragraph (a) after “F”, insert **66** or EFM **67**;
 - (ii) omit sub-paragraph (b);
 - (e) in paragraph (5), in both places, after “F” insert **66** or EFM **67**.
- (6) In regulation 18 (derivative right to reside) –
 - (a) in paragraph (6)(b), after “under the 1971 Act” insert **66** (but see paragraph (7A)) **67**;
 - (b) in paragraph (7)(c)(iv), after “in the Isle of Man” insert **66** (but see paragraph (7A)) **67**;
 - (c) after paragraph (7) insert –

66(7A) Leave to enter, or remain in, the Isle of Man 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). **22**.
- (7) In regulation 37(6) (appeal rights) —
- (a) after “family members”, insert **23** or extended family members **22**;
 - (b) in sub-paragraph (b), before “a qualifying EEA State residence card”, insert **23** in respect of a family member, **22**;
 - (c) after sub-paragraph (b) insert —
 - 23**(c) in respect of an extended family member —
 - (i) an EEA family permit; or
 - (ii) proof that —
 - (aa) the condition in regulation 10(1A) is met;
 - (bb) the criteria to be a family member of the British citizen are met, and
 - (cc) the British citizen is residing in, or did reside, in another EEA State as a worker, self-employed person, self-sufficient person or a student. **22**.

4 Transitional provision

In any decision made after the day on which regulation 3 comes into force as to whether a person satisfies the conditions in regulation 10(2) of the Immigration (European Economic Area) Regulations 2019 (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.

MADE 20 JUNE 2019

W GREENHOW
Chief Secretary

HOWARD QUAYLE
Minister for the Cabinet Office

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations make provision for European Economic Area (EEA) nationals who have a right of residence in the Isle of Man by virtue of Appendix EU to the Immigration Rules. Provision for the family members of such individuals is also made.

Appendix EU to the Immigration Rules has been made as a result of the United Kingdom's withdrawal from the European Union. EEA nationals may obtain leave to enter or remain in the Isle of Man by virtue of that Appendix.

This instrument provides that leave to enter or remain in the Isle of Man obtained by virtue of Appendix EU is not to be treated as "leave" for the purposes of regulation 18 of the 2019 Regulations. Therefore any such leave obtained does not affect a right to reside under regulation 18. This implements European law regarding rights of residence derived from a connection with a European Economic Area national.

Amendments are also made to give effect to the judgement of the Court of Justice of the European Union in the case of C-89/17 Banger by introducing a right of appeal against a decision to refuse extended family members residency documentation and by giving extended family members, meeting certain conditions, the right to enter and reside in the Isle of Man when accompanying a British citizen who has exercised treaty rights in a Member State.

Transitional provisions are made in relation to the changes made giving effect to the judgement of the Court of Justice of the European Union in the case of C-89/17 Banger.