



STATUTORY INSTRUMENTS.

S.I. No. 445 of 2021

EUROPEAN COMMUNITIES (FREE MOVEMENT OF PERSONS)
(AMENDMENT) REGULATIONS 2021

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I, HEATHER HUMPHREYS, Minister for Justice, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004¹, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Free Movement of Persons) (Amendment) Regulations 2021.
2. In these Regulations, “Principal Regulations” means the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015).
3. Regulation 20 of the Principal Regulations is amended –
 - (a) in paragraph (1), by the insertion of “or paragraph (12)” after “Regulation 3(1)”,
 - (b) in paragraph (4), by the insertion of “to whom Regulation 3(1) or paragraph (12)(a) applies” after “Union citizen”,
 - (c) in paragraph (6)(a), by the insertion of “to whom Regulation 3(1) applies” after “Union citizen”, and
 - (d) by the insertion of the following paragraphs after paragraph (11):
“(12) This paragraph applies to –
 - (a) a Union citizen who entered or remained in the State in accordance with these Regulations and who is no longer entitled to be in the State in accordance with these Regulations, and
 - (b) a family member –
 - (i) of a Union citizen referred to in subparagraph (a), or
 - (ii) of a Union citizen who entered or remained in the State in accordance with these Regulations and who has departed from the State,

¹ OJ No. L 158, 30.4.04, p. 77

(II) entered the State for the purpose of joining the Union citizen, or

(III) became a family member while in the State.

(13) For the purposes of subparagraph (b) of paragraph (12), ‘relevant time’ means the time at which the Union citizen referred to in clause (i) or (ii), as the case may be, of that subparagraph, entered or remained in the State in accordance with these Regulations.”.

4. Regulation 25 of the Principal Regulations is amended –

(a) by the substitution of the following paragraph for paragraph (1):

“(1) A person who –

(a) has, or who claims to have, an entitlement under these Regulations to enter or reside in the State,

(b) is the subject of a removal order, or

(c) is the subject of an exclusion order,

may seek a review of any decision concerning such entitlement, claimed entitlement, removal order or exclusion order.”, and

(b) in paragraph (6), by the substitution of “paragraph (1)(b)” for “paragraph (1)”.

5. Regulation 27(2) of the Principal Regulations is amended by the substitution of “any right, entitlement or status” for “a right, entitlement or status of being treated as a permitted family member”.

GIVEN under my Official Seal,
26 August, 2021.

HEATHER HUMPHREYS,
Minister for Justice.

L.S.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015).

The Regulations amend Regulation 20 (Removal orders - general) of the 2015 Regulations to provide for removal orders in respect of:

* Union citizens who entered or remained in the State in accordance with the Regulations and who are no longer entitled to be in the State in accordance with the Regulations, and family members of such Union citizens,

* family members of Union citizens who entered or remained in the State in accordance with the Regulations and who have departed from the State.

The Regulations amend Regulation 25 (Review of decisions) of the 2015 Regulations to improve its clarity in relation to the review of removal orders and exclusion orders made under the Regulations.

The Regulations amend Regulation 27 (Cessation of entitlements) of the 2015 Regulations to clarify that the investigative powers provided for by Regulation 27(2) may be exercised in relation to any right, entitlement or status conferred by the Regulations.

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To be purchased from
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D02 DR67.

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(CLRD-76) 75. 7/21. Propylon.