



STATUTORY INSTRUMENTS.

**S.I. No. 310 of 2008**

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EUROPEAN COMMUNITIES (FREE MOVEMENT OF PERSONS)  
(AMENDMENT) REGULATIONS 2008

**(Prn. A8/1203)**

EUROPEAN COMMUNITIES (FREE MOVEMENT OF PERSONS)  
(AMENDMENT) REGULATIONS 2008

I, Willie O’Dea, Acting Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purposes of giving effect to Directive 2004/38/EC<sup>1</sup> of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, hereby make the following regulations:

*Citation*

1. (1) These Regulations may be cited as the European Communities (Free Movement of Persons) (Amendment) Regulations 2008.

(2) The European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006) and these Regulations may be cited as the European Communities (Free Movement of Persons) Regulations 2006 and 2008.

*Interpretation*

2. In these Regulations “Principal Regulations” means the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006).

*Amendment of Principal Regulations*

3. Regulation 3 of the Principal Regulations is amended by—

(a) the substitution of the following paragraphs for paragraphs (1) and (2):

“(1) These Regulations shall apply to—

(a) Union citizens,

(b) qualifying family members of Union citizens, who are not themselves Union citizens, and—

(i) who seek to enter the State in the company of those Union citizens in respect of whom they are family members, or

(ii) who seek to join those Union citizens, in respect of whom they are family members, who are lawfully in the State, and

<sup>1</sup>OJ L 229 of 29.6.2004, p. 35

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 5th August, 2008.*

(c) permitted family members of Union citizens—

- (i) who seek to enter the State in the company of those Union citizens in respect of whom they are family members, or
- (ii) who seek to join those Union citizens, in respect of whom they are family members, who are lawfully present in the State.

(2) Where, before the coming into operation of the Regulations of 2008, a qualifying family member or a permitted family member had made an application to the Minister for a residence card and the application had not been determined by the Minister then, that application shall be deemed to be an application under these Regulations (as amended by the Regulations of 2008) and shall be dealt with accordingly.”, and

(b) the insertion of the following paragraph after paragraph (4):

“(5) In this Regulation, “Regulations of 2008” means the European Communities (Free Movement of Persons) (Amendment) Regulations 2008.”.



GIVEN under the Official Seal of the Minister for Justice, Equality and Law Reform.  
31 July 2008

WILLIE O’DEA  
Acting Minister for Justice, Equality and Law Reform

EXPLANATORY NOTE

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

These Regulations were made for the purpose of amending the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006) to reflect the decision of the European Court of Justice in its ruling in the case of “Metock and Others” (C-127/08) on 25 July 2008.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
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