

# IMMIGRATION (LEAVE TO ENTER AND REMAIN) (GRACE PERIOD) (JERSEY) DIRECTIONS 2020<sup>1</sup>

Made

21<sup>st</sup> December 2020

Coming into force

22<sup>nd</sup> December 2020

**THE MINISTER FOR HOME AFFAIRS** makes these Directions under sections 3A and 3B of the Immigration Act 1971 as extended to Jersey and as modified by the Immigration and Asylum Act 1999 (Jersey) Order 2003 as amended by the Immigration (Jersey) (Amendment) Order 2017 –

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## 1. Interpretation

In these Directions, unless the context requires otherwise –

"1971 Act" means the Immigration Act 1971 as extended to Jersey;

"1988 Act" means the Immigration Act 1988 as extended to Jersey;

"1999 Act" means the Immigration and Asylum Act 1999 as extended to Jersey;

"application deadline" means the end of 30<sup>th</sup> June, 2021;

"commencement day" means immediately before 11pm on 31<sup>st</sup> December 2020;

"EEA Regulations" means the Immigration (European Economic Area) Regulations 2016 of the United Kingdom as they had effect on commencement day;

"grace period" means the period beginning on commencement day and ending on the application deadline;

"Jersey Immigration Rules" means the directions, as amended from time to time, given under section 1(4A) of the 1971 Act;

"residence scheme rules" means –

(a) Appendix EU(J) and Appendix EU(J) (Family Permit) to the Jersey Immigration Rules, and

(b) any other immigration rules expressed as having effect in connection with the United Kingdom exiting the European Union.

## 2. EEA citizens etc. ordinarily resident in Jersey – deemed leave

(1) Subject to paragraph 4, a person to whom this paragraph applies who was ordinarily resident in Jersey on commencement day is deemed to have been given leave to enter or, as the case may be, remain in Jersey.

(2) This paragraph applies to any person who –

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<sup>1</sup> As amended by the Immigration (Leave to Enter and Remain) (Grace Period) (Amendment) (Jersey) Directions 2021

- (a) does not have leave to enter or remain in Jersey by virtue of residence scheme rules, and
  - (b) satisfies one or more of conditions A, B and C.
- (3) Condition A is that –
- (a) the person had been issued an EEA family permit under paragraphs 258, 259 and 260 of the Jersey Immigration Rules (as they had effect on commencement day), and
  - (b) the EEA family permit had not been revoked or otherwise ceased to be effective before commencement day.
- (4) Condition B is that on commencement day, the person –
- (a) was ordinarily resident in Jersey, and
  - (b) had the right to enter or remain in Jersey by virtue of section 7(1) of the 1988 Act.
- (5) Condition C is that the person is a relevant family member of a person who satisfies Condition B.
- (6) For the purposes of sub-paragraph (5), a person ("X") is a relevant family member of another person ("Y") if –
- (a) before commencement day or during the grace period –
    - (i) X is or becomes Y's child,
    - (ii) X is or becomes the civil partner, durable partner or spouse of Y,
    - (iii) X is or becomes a dependent parent or dependent relative of Y,
    - (iv) X would in the United Kingdom be or have become a family member of Y within the meaning of regulation 7 of the EEA Regulations, or
    - (v) X would in the United Kingdom be or have become an extended family member of Y within the meaning of regulation 8 of the EEA Regulations, and
  - (b) at the time of determining whether X is a family member of Y, X is a child, civil partner, durable partner, spouse, dependent parent, dependent relative, family member or (as the case may be) extended family member of Y within the respective meanings given by sub-sub-paragraph (a).
- (7) In sub-paragraph (6), "child", "civil partner", "dependent parent", "dependent relative", "durable partner" and "spouse" have the respective meanings given by Annex 1 to Appendix EU(J) to the Jersey Immigration Rules (in relation to a relevant EEA citizen or any other person), subject to any necessary modifications.

### **3. EEA citizens etc. arriving in or present in Jersey – deemed leave**

- (1) Subject to paragraph 4, as from commencement day a person to whom this paragraph applies who arrives or is present in Jersey is deemed to have been given leave to enter or, as the case may be, remain in Jersey.

(2) This paragraph applies to a person whilst (and only whilst) that person is treated as having the right to reside –

- (a) in the United Kingdom under Part 3 of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020; or
- (b) in the Isle of Man under Part 3 of the Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (as applied by regulations made under section 19 of the European Union and Trade Act 2019 of the Isle of Man).

#### **4. Exclusions**

Paragraphs 2 and 3 do not apply to any of the following –

- (a) a person who otherwise has leave to enter or remain in Jersey under the 1971 Act;
- (b) a person who does not require leave to enter or remain in Jersey under the 1971 Act;
- (c) a person who is subject to a deportation order made under section 5 of the 1971 Act or a decision to make a deportation order under that section;
- (d) a person who is an excluded person for the purposes of section 8B of the 1971 Act;
- (e) a person in respect of whom directions have been given by the Minister under section 3ZA or section 9 of the 1971 Act for that person not to be given entry to Jersey on the ground that the person's exclusion is conducive to the public good; and
- (f) a person in respect of whom a removal direction has been given under section 10 of the 1999 Act, and who has not since then been granted admission to Jersey.

#### **5. Duration of leave**

(1) Leave to enter or remain in Jersey deemed to have been given under paragraph 2 has effect until the end of the grace period unless –

- (a) it has been revoked or ceased to be effective earlier; or
- (b) it is extended under paragraph 6 or 7 of these Directions.

(2) Unless the context requires otherwise, a reference in the 1971 Act to limited leave includes a reference to leave deemed to have been given under paragraph 2 or 3.

#### **6. Extension of grace period: in-time application**

(1) Where a person having leave to enter or remain in Jersey under paragraph 2 makes an in-time application, the grace period in relation to the person is extended for the period mentioned in sub-paragraph (3) unless the leave is revoked or ceases to be effective.

(2) An in-time application is an application for leave to enter or remain in Jersey by virtue of residence scheme rules which —

- (a) is valid under those rules,
  - (b) is made on or before the application deadline, and
  - (c) has not been withdrawn.
- (3) The extension period begins immediately after the application deadline and ends—
- (a) if the person is, by virtue of the in-time application, granted leave to enter or remain in Jersey, on the day on which that leave is granted;
  - (b) if a decision is taken not to grant leave to enter or remain in Jersey, and the person does not bring proceedings for judicial review of that decision, on the day immediately after the expiry of 3 months following the day on which notice of the decision is given to the applicant;
  - (c) if a decision is taken not to grant leave to enter or remain in Jersey, and the person brings proceedings for judicial review of that decision, on the day on which those proceedings are finally determined, withdrawn or abandoned, or lapse.

**7. Extension of grace period: discretionary admission of late application**

Where in accordance with residence scheme rules the Minister is satisfied that there are reasonable grounds for a person's failure to meet the deadline for making an application referred to in paragraph 6(2), the grace period in relation to the person is extended until the application is determined; and paragraph 6(3) applies as though the application were an in-time application.

**8. Citation and commencement**

These Directions may be cited as the Immigration (Leave to Enter and Remain) (Grace Period) (Jersey) Directions 2020 and come into force on the day after which they are made.