

PERMANENT RESIDENCE FOR EEA NATIONALS

EEA nationals who have resided in the United Kingdom for a continuous period of five years as a 'qualified person' may have acquired the right to reside in the UK permanently. A qualified person can be a jobseeker, a worker, a self-employed person, a self-sufficient person, or a student, or a combination of these. To evidence this right of permanent residence, EEA nationals can apply for a document certifying that they have acquired permanent residence in the UK.

Who is an 'EEA national'?

An 'EEA national' is a citizen of the 'EEA'. The 'EEA' is the European Economic Area. The EEA includes all European Union ('EU') countries plus Iceland, Liechtenstein and Norway. The EU countries are:

Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

Switzerland is neither an EU nor EEA member but is part of the single market. This means Swiss nationals have the same rights to live and work in the UK as other EEA nationals.

Gibraltar is a British Overseas Territory. Nationals of Gibraltar have full British citizenship and have free movement rights in the EEA.

Jobseekers

A jobseeker is an EEA national who enters the UK in order to seek employment, or is present in the UK seeking employment immediately after enjoying a right to reside as a worker, self-employed person, self-sufficient person, or student. The EEA national must be able to provide evidence that they are seeking employment and have a genuine chance of being employed.

Workers

A worker is an EEA national who is exercising their free movement rights in the UK by working in paid employment on a full-time or part-time basis. While there is no minimum amount of hours which an EEA national must be employed for in order to qualify as a worker, the employment must be genuine and effective and not marginal or supplementary.

Self-Employed Persons

A self-employed person is an EEA national, exercising their free movement rights in the UK by working for themselves and generating an income in a self-employed capacity. This can include the establishment of a company. As with workers, whilst there is no minimum amount of hours an EEA national must work, their self-employment must be genuine and effective and not marginal or supplementary.

Self-Sufficient Persons

A self-sufficient person is an EEA national who has sufficient resources not to become a burden on the social assistance system of the UK during their period of residence and crucially also has comprehensive sickness insurance cover in the UK. The comprehensive sickness insurance cover must be valid for the entire period that the EEA national claims to have been self-sufficient.

Students

Students are in a similar situation to self-sufficient persons. Only students who have enough resources not to become a burden on the state and are in possession of comprehensive sickness insurance or an EHIC card from their home country can claim to be qualified persons for the purpose of acquisition of permanent residence.



› Direct Family Members

'Direct family members' are an EEA national's spouse or civil partner, direct descendants who are under 21 or dependants, and dependant direct relatives in the ascending line. Direct family members can acquire permanent residence in line with the sponsoring EEA national provided they have resided together in the UK for the requisite five year period.

Extended Family Members

Other more distant family members or unmarried cohabiting partners can be considered extended family members. There is a higher burden of proof in establishing status as an extended family member. In general, the person would be expected to be a member of the EEA national's household. There are many different scenarios that might fall in to this category. Advice should be sought if a family member is believed to fall under this category.

Absences From The UK

In general, absences of up to 6 months at a time are acceptable. Anything above that is likely to be problematic. There are some exceptions in which longer absences are permitted. Advice should be sought by those with an absence in excess of 6 months.

Complex Scenarios

There are many more complex work or family scenarios not covered by this note. Many people may have other means of acquiring permanent residence, for example through 'retained rights of residence'. Further advice should be sought where there is doubt about eligibility.

Applications

Applications must be made on Form EEA(PR) and can take on average between 3 - 6 months for processing. Sometimes they can take longer due to the volume of applications being submitted.

Evidence

It is critical that sufficient evidence is supplied to allow the Home Office decision-maker to see that you have accumulated 5 years of continuous residence in the UK as a qualified person. Your evidence must cover the full 5 year period with no gaps. All evidence must be in original format. Do not assume that the decision-maker will just check things with HMRC or other bodies. If you fail to provide sufficient evidence your application will be refused. The Home Office provide detailed guidance on the type of evidence they want to see with applications.

Document Certifying Permanent Residence

If an application is successful, the applicant will be issued with a document certifying permanent residence. This is document is necessary when making an application for naturalisation as a British citizen. All EEA nationals are required by law to have this document before their application for naturalisation can be processed. Even where the EEA national has no desire to apply for British citizenship it is an extremely useful document to have as it certifies that the EEA national has acquired permanent residence in the UK. It is not known what the value of this document will be after Brexit but it is believed to be a useful document to have in the event that new regulations or rules are introduced in the future.

Refusals

Many EEA nationals are finding their applications have been refused due to insufficient evidence or due to a lack of understanding of the requirement to have been a qualified person for a continuous period of 5 years. If valid ID has been provided with the application, EEA nationals will normally have a right of appeal against the decision. This allows an appeal to an independent immigration judge at the First-tier Tribunal (Immigration and Asylum Chamber). In general, due to the long waiting time for an appeal and the high cost of pursuing it, it will only be advisable to appeal where the Home Office have made an error of law that a fresh application cannot cure. Advice should be sought on all refusals.