

# Family members of European Economic Area (EEA) nationals who have retained the right of residence

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2006 (as amended). These Regulations make sure the UK complies with its duties under the Free Movement of Persons Directive 2004/38/EC.

## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### About this guidance

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This guidance tells you how to consider an application for a document confirming a right of residence where a family member of a European Economic Area (EEA) national has retained a right of residence in the UK.</p> <p><b>Swiss nationals</b></p> <p>Under the Immigration (EEA) Regulations 2006 (the Regulations), Swiss nationals are included in the definition of EEA nationals. Their family members are considered as if they were family members of EEA nationals.</p> <p>This guidance applies and interprets the Regulations. These Regulations make sure the UK complies with its duties under the Free Movement of Persons Directive 2004/38/EC.</p> <p>Changes to this guidance - this page lists changes to the guidance on family members of European Economic Area (EEA) nationals who have retained the right of residence, with the most recent at the top.</p> <p>Contacts - This page tells you who to contact for help with a specific case in the family members of European Economic Area (EEA) nationals who have retained the right of residence category.</p> <p>Information owner - This page tells you about this version of the family members of European Economic Area (EEA) nationals who have retained the right of residence guidance and who owns it.</p> <p>Safeguard and promote child welfare - This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a> <a href="#">Contact</a> <a href="#">Information owner</a> Links to staff intranet removed</p> <p><b>External Links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Changes to this guidance

[About this guidance](#)  
[Retained rights of residence](#)  
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[Making a decision on an application for retained right of residence](#)

This page lists changes to the family member of a European Economic Area (EEA) national who has retained the right of residence in the UK guidance, with the most recent at the top.

Date of the change	Details of the change
7 April 2015	Change request. <a href="#">Making a decision on an application for retained right of residence</a> changed to reflect biometrics being introduced for this category.
11 February 2015	Revised by the modernised guidance team.

**In this section**  
[Contact](#)  
[Information owner](#)

## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Retained rights of residence

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This section tells you how family members of European Economic Area (EEA) nationals can retain the right of residence in the UK.</p> <p>Under the Immigration (EEA) Regulations 2006 (the Regulations), certain family members of EEA nationals who are exercising free movement rights in the UK are allowed to live in the UK.</p> <p>For more information on the rights of such family members, see related links:</p> <ul style="list-style-type: none"><li>• Direct family members of EEA nationals</li><li>• Extended family members of EEA nationals</li></ul> <p><b>Regulation 10</b></p> <p>The regulations also provide for certain family members of EEA nationals to keep their right of residence in the UK under regulation 10 when:</p> <ul style="list-style-type: none"><li>• the EEA national:<ul style="list-style-type: none"><li>○ dies – regulation 10(2)</li><li>○ leaves the UK – regulation 10(3)</li><li>○ divorces their spouse or dissolves their civil partnership – regulation 10(5)</li></ul></li><li>• the family member is the parent of a child who retains the right of residence – regulation 10(4)</li></ul> <p>The family member will retain the right to reside in these circumstances if they can satisfy the relevant conditions of regulation 10. If the family member cannot satisfy the conditions, you must refuse their application and revoke any registration certificate or residence card that has already been issued.</p> <p>For information on the different ways a family member can retain the right of residence in the UK and the conditions they must satisfy, see related links:</p>	<p><b>In this section</b></p> <p><a href="#">Death of the EEA national sponsor: regulation 10(2)</a></p> <p><a href="#">Direct descendants who retain rights of residence: regulation 10(3)</a></p> <p><a href="#">Parent of a child who retains the right of residence: regulation 10(4)</a></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><a href="#">Documents required for retained rights of residence</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p>
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	<ul style="list-style-type: none"> <li>• Death of the EEA national sponsor: regulation 10(2)</li> <li>• Direct descendants who retain rights of residence: regulation 10(3)</li> <li>• Parent of a child who retains the right of residence: regulation 10(4)</li> <li>• End of relationship with EEA national sponsor: regulation 10(5)</li> </ul> <p>For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10, see in this section: Documents required for retained right of residence.</p> <p><b>Residence cards</b> When a non-EEA national has previously been issued a residence card, this only demonstrates that they had a right to reside under the regulations on the date it was issued. If they later apply for confirmation of a retained right to reside, you must request evidence, where necessary, so you are satisfied that the applicant meets the relevant requirements relating to retained rights.</p> <p><b>Change of circumstances before 30 April 2006</b> The provision to retain a right of residence did not exist before 30 April 2006, which is the date regulations came in to force. A family member who would otherwise meet the requirements cannot benefit from regulation 10 if the circumstances happened before that date. For example, if a person married an EEA national and subsequently divorced them before 30 April 2006 they would not be entitled to retain the right to reside.</p> <p><b>Retained rights and sponsoring other non-EEA nationals</b> The Free Movement of Persons Directive 2004/38/EC ('the Directive') states at paragraph 15 of the preamble that family members who have a retained right of residence do so 'exclusively on a personal basis'. This means that they cannot be the sponsor for another family member. For example, if a non-EEA national with a retained right of residence gets married to another non-EEA national, her new husband will not have any rights under the regulations. Her new husband would only be able to enter or remain in the UK if he qualifies under the Immigration Rules.</p>	<p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Death of the EEA national sponsor: regulation 10(2)

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you how family members of European Economic Area (EEA) nationals can retain the right of residence in the UK following the death of their EEA national sponsor.</p> <p>If the EEA national sponsor has died, their non EEA national family members can retain a right of residence in certain circumstances. This is in line with regulation 10(2) of the Immigration (European Economic Area) Regulations 2006 (the Regulations).</p> <p>For more information on the relatives that are considered family members of an EEA national under the Regulations and the documents that must be submitted to show they are related, see related links:</p> <ul style="list-style-type: none"><li>• Direct Family members of EEA nationals.</li><li>• Extended family members of EEA nationals.</li></ul> <p><b>Extended family members</b></p> <p>Extended family members who have previously been recognised as the family member of an EEA national under the Regulations may retain the right of residence in certain circumstances. To benefit from the provisions of regulation 10, a family member must have been issued with either:</p> <ul style="list-style-type: none"><li>• a residence card, or</li><li>• a registration certificate.</li></ul> <p><b>Requirements of regulation 10(2)</b></p> <p>To qualify under regulation 10(2) the applicant must meet the following conditions:</p> <ul style="list-style-type: none"><li>• the EEA national died on or after 30 April 2006 and was a qualified person or had a right of permanent residence when they died</li><li>• the applicant was living in the UK for at least one year immediately before the EEA national's death as:</li></ul>	<p><b>In this section</b></p> <p><a href="#">Direct descendants who retain rights of residence: regulation 10(3)</a></p> <p><a href="#">Parent of a child who retains the right of residence: regulation 10(4)</a></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><a href="#">Documents required for retained right of residence</a></p> <p><a href="#">Decision making: revoking an existing registration certificate or residence card</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA)</a></p>
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	<ul style="list-style-type: none"> <li>○ a family member of the EEA national qualified person, or</li> <li>○ an EEA national with a permanent right of residence</li> <li>• they would be a worker, self-employed person, or self-sufficient person if they were an EEA national, or they are the family member of a non-EEA national who is a worker, self-employed or a self-sufficient person. For more information on qualified persons, see related link: Qualified persons.</li> </ul> <p><b>Example</b> The spouse of an EEA national who has died will qualify if:</p> <ul style="list-style-type: none"> <li>• they were residing in the UK as a family member of the EEA national for at least a year immediately before their death, and</li> <li>• they are working in the UK.</li> </ul> <p>For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(2), see related link: Documents required for retained right of residence.</p> <p><b>Status of the non-EEA national</b> To be eligible to retain the right of residence, the non-EEA national must be undertaking activities similar to those of a qualified person. This means they must be either:</p> <ul style="list-style-type: none"> <li>• a worker</li> <li>• a self-employed person, or</li> <li>• a self-sufficient person.</li> </ul> <p>They must also remain a worker or self-employed person or a self-sufficient person to continue to retain their rights under the Regulations.</p> <p><b>Students and jobseekers</b> A non-EEA national who is a student or a jobseeker does not meet these conditions, unless they have enough resources to be self-sufficient.</p> <p>If the non-EEA national meets the conditions of regulation 10 but later becomes a student or</p>	<a href="#">Regulations 2006</a>  <a href="#">Free Movement of Persons Directive (2004/38/EC)</a>  <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a>  <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a>  <a href="#">Immigration (EEA) Amendment Regulations 2012</a>  <a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2013</a>  <a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2014</a>
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	<p>jobseeker they will no longer have the retained right of residence unless they have enough resources to be self-sufficient.</p> <p><b>Permanent residence</b>  This retained right of residence will end if the applicant subsequently obtains the right of permanent residence.</p> <p>For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see in this section:</p> <ul style="list-style-type: none"> <li>• Making a decision on an application for retained right of residence</li> <li>• Decision making: revoking an existing registration certificate or residence card.</li> </ul> <p><b>Deciding an application</b>  For information on how to make a decision on an application, see related link: Making a decision on an application for a retained right of residence.</p> <p>Children, spouses or civil partners of an EEA national sponsor who has died may still retain the right of residence even if they do not meet the above conditions. For more information, see related links:</p> <ul style="list-style-type: none"> <li>• Direct descendants who retain a right of residence</li> <li>• Parent of a child who retains the right of residence.</li> </ul>	
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Direct descendants who retain right of residence: regulation 10(3)

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you how the children of European Economic Area (EEA) nationals can retain the right of residence in the UK.</p> <p>The direct descendants (either EEA or non EEA) of an EEA national can retain a right of residence in certain circumstances. This is in line with regulation 10(3) of the Immigration (European Economic Area) Regulations 2006 (the Regulations).</p> <p><b>Direct descendants</b></p> <p>Direct descendants include:</p> <ul style="list-style-type: none"><li>• children</li><li>• grandchildren, and</li><li>• great-grandchildren</li></ul> <p>Direct descendants may meet the requirement of regulation 10(2). However, if they do not meet the requirement of 10(2) then they may still meet the requirements of regulation (10) (3).</p> <p>An example of a direct descendant who would not meet regulation 10(2) might be a non-EEA national child of an EEA national who has left the UK. In this case they would not meet regulation 10(2), as the EEA national has not died, however they may meeting the requirement of regulation 10(3).</p> <p><b>Requirements of regulation 10(3)</b></p> <p>A direct descendant will meet the conditions of regulation 10(3) when:</p> <ul style="list-style-type: none"><li>• they are the direct descendant of:<ul style="list-style-type: none"><li>○ a qualified person or an EEA national with a permanent right of residence who has died on or after 30 April 2006</li><li>○ a person who ceased to be a qualified person when they ceased to reside in the</li></ul></li></ul>	<p><b>In this section</b></p> <p><a href="#">Death of the EEA national sponsor: regulation 10(2)</a></p> <p><a href="#">Parent of a child who retains the right of residence: regulation 10(4)</a></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><a href="#">Making a decision on an application for retained right of residence</a></p> <p><a href="#">Decision making: revoking an existing registration certificate or residence card</a></p> <p><a href="#">Documents required for retained rights of residence</a></p>
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	<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>○ UK, or</li> <li>○ the spouse or civil partner of the qualified person or the EEA national with a permanent right of residence referred to in the first sub bullet when they died, or is the spouse or civil partner of a person referred to in the second sub bullet</li> </ul> </li> <li>• they were attending an educational course in the UK immediately before the qualified person, or the EEA national with a permanent right of residence, died or ceased to be qualified and they continue to attend that course.</li> </ul> <p>If the direct descendant was not in education immediately prior to the EEA national sponsor dying or leaving the UK then they do not meet the conditions of regulation 10(3).</p> <p>For more information on qualified persons, see related link.</p> <p>For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(3), see related link: Documents required for retained right of residence.</p> <p><b>Discretionary leave under Article 8 of the European Convention on Human Rights (ECHR)</b></p> <p>If the direct descendant does not meet the regulation (10)(2) or (10(3) and additionally does not meet the conditions of any other part of the Regulations then they have no right to live in the UK under the Regulations. However, if they have a sibling who does meet the conditions of regulation 10(3) and a parent who meets the conditions of regulation 10(4) then you must issue them with discretionary leave to prevent a breach of their rights under Article 8 of the ECHR.</p> <p><b>End of retained rights of residence</b></p> <p>A direct descendant's right of residence will end as soon as any of the following occurs:</p> <ul style="list-style-type: none"> <li>• they gain the right of permanent residence, or</li> <li>• they finish education.</li> </ul> <p>For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see related links:</p>	<p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA) Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration</a></p>
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	<ul style="list-style-type: none"> <li>• Making a decision on an application for retained right of residence</li> <li>• Decision making: revoking an existing registration certificate or residence card.</li> </ul>	<a href="#">(EEA)(Amendment) Regulations 2014</a>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Parent of a child who retains the right of residence: regulation 10(4)

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you how the parent of a child of a European Economic Area (EEA) national can retain the right of residence in the UK.</p> <p>The parent of a child/children of an EEA national can retain a right of residence in certain circumstances. This is in line with regulation 10(4) of the Immigration (European Economic Area) Regulations 2006 (the Regulations).</p> <p>It will mainly be non-EEA national parents who apply under this regulation however an EEA national parent who is not a qualified person in their own right may also apply under this regulation.</p> <p><b>Requirements of regulation 10(4)</b></p> <p>If the applicant has custody of a child who satisfies the conditions of regulation 10(3), they will retain the right of residence under regulation 10(4) in the following circumstances</p> <ul style="list-style-type: none"><li>• for as long as their child also retains this right of residence under regulation 10(3)</li><li>• where the child reaches the age of 21 (unless the child needs their parent to stay in order to allow them to complete their education)</li><li>• until the parent no longer has custody of the child, or</li><li>• until the parent gains the right of permanent residence.</li></ul> <p>Where a person is claiming a retained right of residence on the basis of that they are the parent of a child with a retained right under regulation 10(3) reaches the age of 21, they will have a continued right of residence only where the child requires their presence to be able to continue their education in the UK.</p> <p>In such instances, only evidence that shows the adult child's dependence on the parent is due to a severe physical or mental disability is likely to be considered to demonstrate that the adult child would be unable to continue their education if their parent did not continue to</p>	<p><b>In this section</b></p> <p><a href="#">Death of the EEA national sponsor: regulation 10(2)</a></p> <p><a href="#">Direct descendants who retain rights of residence: regulation 10(3)</a></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)</a></p> <p><b>Related links</b></p> <p><a href="#">Making a decision on an application for retained right of residence</a></p> <p><a href="#">Decision making: revoking an existing registration certificate or residence card</a></p> <p><a href="#">Documents required for retained rights of residence</a></p> <p><b>External links</b></p>
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	<p>have a right to residence in the UK.</p> <p>Such cases are likely to be rare and will need to be considered on an individual basis. You must refer cases involving a dependent adult to a deputy chief caseworker before you make your decision.</p> <p>For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(4), see related link: Documents required for retained right of residence.</p> <p>For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see related links:</p> <ul style="list-style-type: none"> <li>• Making a decision on an application for retained right of residence</li> <li>• Decision making: revoking an existing registration certificate or residence card.</li> </ul> <p>For information on how a child can retain the right of residence, see related link: Direct descendants who retain rights of residence: regulation 10(3).</p>	<p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### End of relationship with EEA national sponsor: regulation 10(5)

<p><a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a></p>	<p>This page tells you how family members of European Economic Area (EEA) nationals can retain the right of residence in the UK where a marriage or civil partnership is terminated.</p> <p>The non-EEA national spouse or civil partner of an EEA national can, in certain circumstances, retain a right of residence when their relationship ends. The family members of the former spouse or civil partner may also retain a right of residence. This is in line with regulations 10(5) of the Immigration (European Economic Area) Regulations 2006 (the Regulations).</p> <p>For more information on the conditions of regulations 10(5) and the documents required to prove the conditions are met, see related links:</p> <ul style="list-style-type: none"><li>• End of relationship with EEA national sponsor</li><li>• End of relationship with EEA national sponsor</li><li>• Documents required to prove conditions of regulation 10 are met.</li></ul> <p><b>End of relationship - separation</b></p> <p>If a non-EEA national separates from their EEA national spouse or civil partner they remain a family member with the right to live in the UK for as long as they are married to, or in a civil partnership with, an EEA national sponsor who continues to exercise free movement rights in the UK, or who has acquired a right of permanent residence. They continue to have a right to live in the UK until such time as either:</p> <ul style="list-style-type: none"><li>• a divorce is finalised and a decree absolute is issued</li><li>• the marriage is annulled or</li><li>• the civil partnership is dissolved</li></ul> <p>For information on how to deal with such cases, see related link: Direct family members of EEA nationals.</p>	<p><b>In this section</b></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)(a), (b) and (c)</a></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)(d)</a></p> <p><b>Related Links</b></p> <p>Links to staff intranet removed</p> <p><a href="#">Making a decision on an application for retained right of residence</a></p> <p><a href="#">Decision making: revoking an existing registration certificate or residence card</a></p> <p><a href="#">Documents required for retained rights of residence</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p>
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	<p><b>Marriage or civil partnership officially ended</b></p> <p>Once the marriage or civil partnership has been officially ended, the non-EEA spouse or civil partner, and anyone who was related to the EEA national sponsor by marriage, must meet the requirements of regulation 10(5) in order to retain a right of residence in the UK.</p> <p>A non-EEA national spouse or civil partner will lose their right of residence if:</p> <ul style="list-style-type: none"> <li>• the EEA national leaves the UK while they are still married or in a civil partnership (meaning they are no longer a ‘qualified person’), and</li> <li>• the non-EEA national does not qualify for a retained right of residence under any other part of regulation 10.</li> </ul> <p>For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(5), see related link: Documents required for retained right of residence.</p> <p>For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see related links:</p> <ul style="list-style-type: none"> <li>• Making a decision on an application for retained right of residence</li> <li>• Decision making: revoking an existing registration certificate or residence card.</li> </ul>	<p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### End of relationship with EEA national sponsor: regulation 10(5) (a), (b) and (c)

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you about the conditions of regulation 10(5) which family members of European Economic Area (EEA) nationals must meet in order to retain the right of residence in the UK where their relationship ends.</p> <p><b>Requirements of regulation 10(5) (a), (b) and (c)</b></p> <p>A person ceases to be the family member of an EEA national sponsor because of a divorce, an annulment or a dissolution of civil partnership will retain a right of residence where:</p> <ul style="list-style-type: none"><li>• the EEA national was a qualified person, or had permanent residence, on the date of the termination of the marriage or civil partnership</li><li>• the applicant was residing in the UK in accordance with the Regulations at the date of termination and<ul style="list-style-type: none"><li>○ the applicant is not an EEA national but if they were, they would be a worker, self-employed person, or self-sufficient person or</li><li>○ the applicant is the family member of a non-EEA national who is a worker, self-employed or a self-sufficient person.</li></ul></li></ul> <p>For information on the documents that an applicant must provide to prove they meet the requirements of regulation 10(5), see related link: Documents required for retained rights of residence.</p> <p><b>Termination of the relationship</b></p> <p>The relationship is considered to have been terminated on the date that the following documents are issued:</p> <ul style="list-style-type: none"><li>• Decree Absolute</li><li>• Decree of Annulment, or</li><li>• Certificate of Dissolution.</li></ul> <p>The relationship must have terminated on or after 30 April 2006 when the Regulations came</p>	<p><b>In this section</b></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5) (d)</a></p> <p><b>Related links</b></p> <p><a href="#">Documents required for retained rights of residence</a></p> <p><a href="#">Making a decision on an application for retained right of residence</a></p> <p><a href="#">Decision making: revoking an existing registration certificate or residence card</a></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p>
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	<p>in to force. If it terminated before this date then the applicant cannot have retained a right of residence.</p> <p><b>Students and jobseekers</b></p> <p>A non-EEA national who is a student or a jobseeker does not meet these conditions, unless they have enough resources to be self-sufficient.</p> <p>If the non-EEA national meets the conditions of regulation 10 but later becomes a student or jobseeker they will no longer have the retained right of residence unless they have enough resources to be self-sufficient.</p> <p>For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see related links:</p> <ul style="list-style-type: none"> <li>• Making a decision on an application for retained right of residence</li> <li>• Decision making: revoking an existing registration certificate or residence card.</li> </ul> <p>For more information on qualified persons, see related link.</p> <p><b>Requirements of regulation 10(5) (d)</b></p> <p>In addition to meeting the requirements of regulation 10(5) (a)-(c) a person who ceases to be the family member of an EEA national sponsor because of a divorce, an annulment or a dissolution of civil partnership must also meet one of the requirements of regulation 10(5)(d) in order to retain a right of residence.</p>	<p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### End of relationship with EEA national sponsor: regulation 10(5)(d)

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This page tells you about the conditions of regulation 10(5) which family members of European Economic Area (EEA) nationals must meet in order to retain the right of residence in the UK where their relationship ends.

**Requirements of regulation 10(5)(d)(i-iv)**

Regulation 10(5)(d)	Conditions
(i)	<p>To meet the conditions of regulation 10(5)(d)(i) the applicant must:</p> <ul style="list-style-type: none"><li>• have been married to, or in a civil partnership with, the EEA national for at least three years immediately before beginning proceedings for divorce, annulment or dissolution, and</li><li>• have lived in the UK with the EEA national sponsor for at least one year during the time of their marriage or civil partnership.</li></ul>
(ii)	<p>To meet the conditions of regulation 10(5)(d)(ii) the applicant must have custody of the EEA national sponsor’s child.</p>
(iii)	<p>To meet the conditions of regulation 10(5)(d)(iii), the applicant must have the right of access to the EEA national sponsor’s child, who is aged under 18 and where a court has ordered that such access must take place in the UK.</p> <p>The retained right of residence obtained in these circumstances will end when:</p> <ul style="list-style-type: none"><li>• the custody of the child ends</li><li>• the applicant no longer has the right of access to the child</li><li>• the order granting access is amended to allow the access to take place outside the UK</li><li>• the applicant gains the right of permanent residence in the UK, or</li><li>• the child named in the order granting access reaches the age of</li></ul>

**In this section**  
[End of relationship with EEA national sponsor: regulation 10\(5\)\(a\), \(b\) and \(c\)](#)

**Related links**  
[Making a decision on an application for retained right of residence](#)

[Decision making: revoking an existing registration certificate or residence card](#)

[Documents required for retained residence in domestic violence cases](#)

[Documents required for retained rights of residence](#)

**External links**  
[Immigration \(EEA\) Regulations 2006](#)

[Free Movement of Persons Directive](#)

		18. If more than one child is involved then it will end when the youngest child reaches the age of 18.	<a href="#">(2004/38/EC)</a>
	(iv)	<p>To meet the conditions of regulation 10(5)(d)(iv) the applicant's continued right of residence in the UK must be warranted by particularly difficult circumstances. For example, when the applicant or another family member has been a victim of domestic violence whilst the marriage or civil partnership was subsisting.</p> <p>If the applicant claims a retained right of residence due to difficult circumstances other than domestic violence, you must discuss the case with your senior caseworker who will then decide if the circumstances justify the retained right of residence.</p> <p>For information on the evidence the applicant must provide, see related link: Documents required for retained residence in domestic violence cases.</p>	<a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a>  <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a>  <a href="#">Immigration (EEA) Amendment Regulations 2012</a>  <a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2013</a>  <a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2014</a>
		<p>For information how to make a decision on an application, see related link: Making a decision on an application for a registration certificate or residence card to confirm a retained right of residence.</p> <p>For information on the documents that an applicant must provide to prove they meet the requirements of regulation 10(5), see related link: Documents required for retained rights of residence.</p>	

## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Documents required for retained rights of residence

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	This section tells you which documents must be provided by family members of European Economic Area (EEA) nationals who are applying for a document for a retained right of residence.		<b>In this section</b> <a href="#">Documents required for retained residence in domestic violence cases</a>  <a href="#">When to request the EEA national's passport or ID card</a>  <a href="#">Alternative evidence of identity</a>  <a href="#">Applicants who are unable to provide all of the evidence</a>  <b>Related links</b> Links to staff intranet removed  <a href="#">Death of the EEA national sponsor: regulation 10(2)</a>  <a href="#">Direct descendants who retain a right of residence: regulation 10(3)</a>  <a href="#">Parent of a child who</a>			
	<table><thead><tr><th>Regulation</th><th>Documents required</th></tr></thead><tbody><tr><td>Death of the EEA national sponsor: regulation 10(2)</td><td><p>The applicant(s) must provide evidence of:</p><ul style="list-style-type: none"><li>• Their nationality. This must be their valid passport or identity card if they are an EEA national or their valid passport if they are a non-EEA nationals.</li><li>• The nationality of the EEA national sponsor, which must be a valid passport or EEA ID card, where there is a valid reason for requiring this. See related link: <a href="#">When to request the EEA national's passport or ID card</a></li><li>• Their relationship to the EEA national.</li><li>• The EEA national's death certificate.</li><li>• The EEA national exercising free movement rights at the time of their death.</li><li>• Their residence in the UK as the family member of the EEA national for at least one year immediately before the EEA national's death.</li><li>• That they are a worker, self-employed person or self-sufficient person or the family member of such a person.</li></ul><p>For information on the types of documents that must be provided, see related links:</p><ul style="list-style-type: none"><li>• <a href="#">Direct family members of EEA nationals</a></li><li>• <a href="#">European Economic Area nationals qualified persons</a></li></ul></td></tr></tbody></table>	Regulation	Documents required	Death of the EEA national sponsor: regulation 10(2)	<p>The applicant(s) must provide evidence of:</p> <ul style="list-style-type: none"><li>• Their nationality. This must be their valid passport or identity card if they are an EEA national or their valid passport if they are a non-EEA nationals.</li><li>• The nationality of the EEA national sponsor, which must be a valid passport or EEA ID card, where there is a valid reason for requiring this. See related link: <a href="#">When to request the EEA national's passport or ID card</a></li><li>• Their relationship to the EEA national.</li><li>• The EEA national's death certificate.</li><li>• The EEA national exercising free movement rights at the time of their death.</li><li>• Their residence in the UK as the family member of the EEA national for at least one year immediately before the EEA national's death.</li><li>• That they are a worker, self-employed person or self-sufficient person or the family member of such a person.</li></ul> <p>For information on the types of documents that must be provided, see related links:</p> <ul style="list-style-type: none"><li>• <a href="#">Direct family members of EEA nationals</a></li><li>• <a href="#">European Economic Area nationals qualified persons</a></li></ul>	
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	Direct descendants who retain right of residence: regulation 10(3)	<p>The applicant must provide evidence of:</p> <ul style="list-style-type: none"> <li>• Their nationality. This must be their valid passport or identity card if they are an EEA national or their valid passport if they are a non-EEA national.</li> <li>• Their relationship to the EEA national. For the types of documents that must be provided see related link: Direct family members of EEA nationals.</li> <li>• The EEA national's death certificate, if applicable.</li> <li>• Proof the EEA national has left the UK, if applicable. This can be in the form of a declaration.</li> <li>• The EEA national exercising free movement rights prior to their death or leaving the UK. For the types of documents that must be provided see related link: Qualified persons.</li> <li>• The child being educated in the UK immediately prior to the EEA national leaving the UK or dying.</li> <li>• The child's continuing education in the UK, for example a letter from the child's school.</li> </ul>	<p><a href="#">retains the right of residence: regulation 10(4)</a></p> <p><a href="#">End of relationship with EEA national sponsor: regulation 10(5)</a></p> <p><a href="#">Making a decision on an application for a retained right of residence</a></p> <p><b>External links</b>  <a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA</a></p>
	Parent of a child who retains the right of residence: regulation 10(4)	<p>The applicant must provide the same evidence that their child must provide (see above).</p> <p>They must also provide evidence of:</p> <ul style="list-style-type: none"> <li>• Their nationality. This must be their valid passport or valid identity card if they are an EEA national or their valid passport if they are a non-EEA nationals.</li> <li>• Being the parent of the child. For the types of documents that must be provided see related link: Direct family members of EEA nationals.</li> <li>• Their relationship to the EEA national. For the types of documents that must be provided see related link: Direct family members of EEA nationals.</li> <li>• Their custody of the child, if appropriate. For example, a court</li> </ul>	

		order or a letter that has been officially sworn by a solicitor confirming that the parent has custody.	<a href="#">Amendment) (no.2) Regulations 2012</a>
	End of relationship with EEA national sponsor: regulation 10(5)	<p>The applicant must provide evidence of:</p> <ul style="list-style-type: none"> <li>• Their nationality. This must be their valid passport or valid identity card if they are an EEA national or their valid passport if they are a non-EEA national.</li> <li>• The nationality of the EEA national sponsor, which must be a valid passport or EEA ID card, where there is a valid reason for requiring this – see related link: When to request the EEA national's passport or ID card.</li> <li>• The identity of the EEA national exercising free movement rights at the time the relationship was terminated. For the types of documents that must be provided see related link: Qualified persons.</li> <li>• The marriage or civil partnership lasting for at least three years immediately before the initiation of proceedings for divorce, annulment or dissolution. For the types of documents that must be provided see related link: Direct family members of EEA nationals.</li> <li>• Their residence in the UK for at least one year during the marriage. For the types of documents that must be provided see related link: Direct family members of EEA nationals.</li> <li>• The termination of their relationship with the EEA national on or after 30 April 2006. This could be a: <ul style="list-style-type: none"> <li>○ Decree absolute,</li> <li>○ Decree of annulment, or</li> <li>○ Certificate of dissolution, and</li> </ul> </li> <li>• Being a worker, self-employed person or self-sufficient person or the family member of such a person. For the types of documents that must be provided, see related links: <ul style="list-style-type: none"> <li>○ Qualified persons</li> <li>○ Direct family members of EEA nationals.</li> </ul> </li> </ul>	<a href="#">Immigration (EEA)(Amendment) Regulations 2013</a>  <a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2014</a>

	Applicants who cite domestic violence or other difficult circumstances as reason for the end of their relationship must provide extra evidence. For detailed information, see related link: Documents required for retained residence in domestic violence cases.	
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### **Original documents and translations**

Passports and ID documents must be originals.

Documents submitted to prove a retained right of residence must also be originals as you cannot accept photocopies unless there are exceptional circumstances and the applicant gives valid reasons for not being able to provide the original document. In such circumstances, you can accept a copy certified by the body or authority which issued the original or by a notary.

All documents not in English must be translated.

For further information, see related link: Processes and procedures: Identification document requirements.

### **Deciding an application**

For information on how to make a decision on an application, see related link: Making a decision on an application for a retained right of residence.



## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Documents required for retained residence in domestic violence cases

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you which documents must be provided by former spouses or civil partners and family members of European Economic Area (EEA) nationals whose relationship has ended as a result of domestic violence or other difficult circumstances.</p> <p>The regulations only provide for a retained right of residence to former spouses and civil partners. There is no basis for a durable partner to retain a right of residence for reasons of domestic violence.</p> <p>When the relationship between a family member and their EEA national sponsor has ended and domestic violence or other difficult issues are cited in the application, they may apply to retain their right of residence under regulation 10(5)(d)(iv) of the Immigration (European Economic Area) Regulations 2006 (the Regulations). Such applicants must provide:</p> <ul style="list-style-type: none"><li>• the evidence required for regulation 10(5) (see related link: Documents for retained rights of residence), and</li><li>• evidence of being a victim of domestic violence or other difficult circumstances.</li></ul> <p><b>Evidence of domestic violence</b> For more information, see related link: Domestic violence guidance.</p> <p><b>Delaying your decision for court hearings</b> Where the non-EEA national claims they are waiting for a court hearing for a court order, you can delay making a decision on the application (subject to the relevant deadline) pending the outcome of that hearing, provided you have:</p> <ul style="list-style-type: none"><li>• evidence from the court confirming the case has been listed to be heard, and</li><li>• confirmation of the date of the hearing.</li></ul> <p>A without notice application is normally heard on the day of application and the date for the</p>	<p><b>In this section</b> <a href="#">When to request the EEA national's passport or ID card</a></p> <p><a href="#">Alternative evidence of identity</a></p> <p><a href="#">Applicants who are unable to provide all of the evidence</a></p> <p><b>Related links</b> <a href="#">Making a decision on an application for retained right of residence</a></p> <p>Links to staff intranet removed</p> <p><b>External links</b> <a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment)</a></p>
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	<p>full hearing, if there is to be one, is normally within seven days. The court will try to resolve the case on the date set, but where the case is complicated and likely to last a full day it may be re-listed but will be given priority to be heard as soon as possible. It is unlikely that there will be any significant delay.</p> <p><b>Other acceptable proof of domestic violence</b></p> <p>It is often difficult for victims of domestic violence to produce the documentary evidence of violence and there is often an unwillingness or insufficient evidence to take the matter to court. Although you must still try to obtain police or court evidence as confirmation of domestic violence, where this is not possible, acceptable evidence may be accepted from other sources. For further information see link: Domestic violence guidance.</p> <p><b>Applicants who can't provide all the evidence</b></p> <p>The applicant must show they have made every effort to provide the necessary evidence. Where a relationship has broken down, however, it may not always be possible for the applicant to provide all of the documents. For information on what to do when an applicant is unable to provide all the evidence, see related link.</p> <p>For information on how to make a decision on an application, see related link: Making a decision on an application for a retained right of residence.</p>	<p><a href="#">Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### When to request the EEA national's passport or ID card

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you when you must request the passport or ID card of the European Economic Area (EEA) national family member.</p> <p>You cannot refuse an application just because the applicant has not submitted the passport or EEA ID card of the EEA national family member. This is in line with the findings of the Upper Tribunal in the case of 'Barnett and Others'. In each case you must consider whether there is a valid reason for requiring the document.</p> <p>Valid reasons could include, but are not restricted to:</p> <ul style="list-style-type: none"><li>• documents have not been issued before (and so we have not previously seen evidence of EEA nationality)</li><li>• you have information which suggests the EEA national has acquired another nationality which may have implications for their EEA status</li><li>• you have information which suggests the EEA national is no longer in the UK</li><li>• you have suspicions that there has been some fraud involved in the application.</li></ul> <p>This does not affect the requirement for the non-EEA national family member to present evidence of their nationality in the form of a passport. If this is not submitted, you can return or refuse the application as normal. For guidance about alternative evidence of identity, see related link.</p> <p>For more information on the relevant case law, please see related links: EEA case law: Barnett &amp; Others.</p>	<p><b>In this section</b></p> <p><a href="#">Documents required for retained residence in domestic violence cases</a></p> <p><a href="#">Alternative evidence of identity</a></p> <p><a href="#">Applicants who are unable to provide all of the evidence</a></p> <p><b>Related links</b> Links to staff intranet removed</p> <p><b>External links</b> <a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment)</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Alternative evidence of identity

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you when you can exercise discretion and accept alternative evidence of identity for family members of European Economic Area (EEA) nationals.</p> <p>If a non-EEA national family member cannot provide a passport due to circumstances outside of his or her control, you can accept documents issued by a UK government department for travel or identity purposes, for example:</p> <ul style="list-style-type: none"><li>• an application registration card (ARC), or</li><li>• a travel document, may be provided.</li></ul> <p>This is in line with the discretion which is provided for in regulation 29A of the of the Immigration (European Economic Area) Regulations 2006 (the Regulations). You must only consider using such discretion when:</p> <ul style="list-style-type: none"><li>• the applicant is unable to obtain a passport for reasons outside of his or her control (for example, it would not be appropriate when the applicant is claiming to be unable to obtain a passport for reasons relating to cost or inconvenience), and</li><li>• the decision has been approved by an SEO senior caseworker.</li></ul> <p>For further information, see related link: Processes and procedures: alternative evidence of identity.</p>	<p><b>In this section</b></p> <p><a href="#">Documents required for retained residence in domestic violence cases</a></p> <p><a href="#">When to request the EEA national's passport or ID card</a></p> <p><a href="#">Applicants who are unable to provide all of the evidence</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Applicants who are unable to provide all the evidence

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you what to do when an applicant is unable to provide evidence to support their application for a document confirming they retain the right of residence in the UK.</p> <p>Regulations 16, 17 and 18 of the Immigration (European Economic Area) Regulations 2006 (the Regulations) put the responsibility on the applicant to provide the necessary proof that they are eligible for a document to confirm their right of residence in the UK.</p> <p>In cases where an applicant has previously been issued a document this only demonstrates that they had a right to reside under the regulations on the date it was issued. If they subsequently apply for a retained right to reside, you must be satisfied that the applicant meets the relevant requirements relating to retained rights and request evidence where necessary.</p> <p><b>No evidence of European Economic Area (EEA) sponsor</b></p> <p>In cases where there has been a breakdown in the relationship between the applicant and their EEA national sponsor it may not always be possible for them to get the documents that are needed to support their application. For example, they may not be able to submit evidence of the EEA national sponsor's nationality and/or that the EEA sponsor has been exercising free movement rights. Examples of this include:</p> <ul style="list-style-type: none"><li>• Where the applicant was the victim of domestic violence and cannot provide evidence relating to their EEA national sponsor's nationality or free movement rights (to ask them to do so could put them at risk - for more information, see related link: Documents required for retained residence in domestic violence cases).</li><li>• Where the applicant's relationship has ended acrimoniously but they have provided evidence to show that they have made every effort to provide the required documents. For example, attempting to make contact with the EEA national sponsor during divorce proceedings.</li></ul> <p>When dealing with these cases you must take a pragmatic approach:</p>	<p><b>In this section</b></p> <p><a href="#">Documents required for retained residence in domestic violence cases</a></p> <p><a href="#">When to request the EEA national's passport or ID card</a></p> <p><a href="#">Alternative evidence of identity</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment</a></p>
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- consider each case on its merits, and
- if you are satisfied the applicant cannot get the evidence themselves, make enquiries on their behalf where possible. You must get the agreement of your senior caseworker before doing so.

### **Applications for registration certificates or residence cards**

Where it is agreed that you can make additional enquiries the applicant must give you as much detail as they can about the EEA national sponsor.

- If they cannot provide proof of the EEA national sponsor's identity, nationality or proof of relationship, then you must check existing records on GCID to see if their identity has been established in any previous applications.
- If they can give the name of the EEA national sponsor's employer or their place of study or existing records on GCID hold such details, then you may contact the employer or educational establishment to enquire if the EEA national sponsor is working or studying there. You must base your decision whether to do so according to the facts of the individual case and with the agreement of a senior caseworker. You must not make reference to domestic violence to the employer or educational establishment where this is the reason for the enquiry.
- If you decide not to get information directly from the EEA national's employer or educational establishment, for example because of the exceptional circumstances of the case or because the EEA national is self-employed, then you must make enquiries with Her Majesty's Revenue & Customs (HMRC) to try and gather the necessary information.

**Official – sensitive – do not disclose – start of section**

This information has been removed as it is restricted for internal Home Office use only.

[Regulations 2012](#)

[Immigration \(EEA Amendment\) \(no.2\) Regulations 2012](#)

[Immigration \(EEA\)\(Amendment\) Regulations 2013](#)

[Immigration \(EEA\) \(Amendment\)\(no. 2\) Regulations 2013](#)

[Immigration \(EEA\)\(Amendment\) Regulations 2014](#)



**Official – sensitive – do not disclose – end of section**

It will not be possible to make enquiries on behalf of the applicant if the EEA national sponsor:

- is exercising free movement rights as a self-sufficient person, or
- is studying but the applicant cannot state where (and this information is not available on GCID).

In such cases, and where the enquiries you have made on behalf of the applicant have not provided the information needed, you must discuss the case with your senior caseworker. They will then decide if discretion should be applied based on the particular circumstances of the case.

**Applications for documents certifying permanent residence or permanent residence cards**

Applicants may also have difficulty providing evidence to cover a continuous five-year period when they are applying for a document confirming a permanent right of residence. You must follow the same guidance as stated above for registration certificates and residence cards.

If there are periods of time that the applicant cannot provide documents for or where checks with HMRC do not cover the full five-year period, you must discuss the case with your senior caseworker. They will decide whether discretion should be applied based on the individual circumstances of the case. The senior caseworker must look at the amount of information provided by the applicant along with the level of evidence that has been gathered.

## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Making a decision on an application for retained right of residence

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This section tells you how to make a decision on applications for documents to certify residence or permanent residence where the applicant has retained rights, and how to revoke existing registration certificates or residence cards.</p> <p><b>Application forms</b></p> <p>Although it is preferable, there is no requirement in law for a direct family member to complete an application form for confirmation of a retained right of residence or permanent residence. The following forms are available for use:</p> <ul style="list-style-type: none"><li>• EEA(FM) – registration certificate (EEA national) or residence card (non-EEA national) to confirm a retained right of residence</li><li>• EEA(PR) – document certifying permanent residence (EEA national) or permanent residence card (non-EEA national) to confirm a right of permanent residence</li></ul> <p>For further information on applications forms and the documents required to accompany an application, see related link: Processes and procedures: EEA application forms.</p> <p><b>Photographs</b></p> <p>All applications from a family member of an EEA national sponsor for a document certifying permanent residence or a permanent residence card must include 2 colour passport sized photographs with their full name on the back.</p> <p>If the application is received without photographs it will be returned to the applicant. If you receive an application that does not have photographs enclosed you must discuss the case with a senior caseworker who will decide how to proceed.</p> <p><b>Biometric information</b></p> <p>In line with the Immigration (Provision of Physical Data) Regulations 2006 (as amended), from 31 March 2015 a non-EEA national applying for a residence card, derivative residence card or permanent residence card has to enrol their biometrics in order to be issued a</p>	<p><b>In this section</b></p> <p><a href="#">Decision making: registration certificates and residence card to confirm a retained right of residence</a></p> <p><a href="#">Decision making: permanent residence or permanent residence where the applicant has a retained right of residence</a></p> <p><a href="#">Decision making: Revoking an existing registration certificate or residence card</a></p> <p><b>Related Links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of</a></p>
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	<p>document confirming their right to reside in the UK under European Union (EU) law.</p> <p>Any references to a residence card, derivative residence card or permanent residence card in this document should be taken to also mean a document issued in a biometric format.</p> <p>For further guidance on the process for enrolling biometrics, please see related link: Biometric information; introduction.</p> <p><b>Public policy, security and health</b></p> <p>Regulation 14(5) of the regulations state the right of residence for family members is subject to regulation 19(3)(b) of the regulations. This states an applicant and their family members may be removed from the UK on the grounds of:</p> <ul style="list-style-type: none"> <li>• public policy</li> <li>• public security</li> <li>• public health</li> </ul> <p>Before issuing a registration certificate or a residence card, you must be certain that there are no reasons to refuse on the grounds of public safety.</p>	<p><a href="#">Persons Directive (2004/38/EC)</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Decision making: registration certificate or residence card to confirm a retained right of residence

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you how to consider applications from family members of European Economic Area (EEA) nationals applying for documents confirming they have retained the right of residence in the UK.</p> <p><b>Domestic violence cases</b></p> <p>All applications made on the basis of domestic violence must be referred to a senior caseworker before you issue a registration certificate, residence card or refusal. The senior caseworker will check the decision you have made is correct. For more information on considering domestic violence cases, see related link: Documents required for retained residence in domestic violence case.</p> <p><b>Valid proof provided to show they meet the conditions of regulation 10</b></p> <p>When a non-EEA national has previously been issued a residence card, it only demonstrates that they had a right to reside under the Immigration (European Economic Area) Regulations 2006 (the Regulations) on the date it was issued. If they subsequently apply for a document to confirm a retained right to reside, you must request evidence where necessary so you are satisfied that the applicant meets all of the relevant conditions relating to retained rights.</p> <p>If the applicant has provided sufficient evidence to show that they meet the conditions of regulation 10, then you must issue:</p> <ul style="list-style-type: none"><li>• a registration certificate to EEA nationals, or</li><li>• a residence card to non-EEA nationals.</li></ul> <p>A residence card will normally be valid for five years. However, if you know the applicant's retained right of residence will end in less than five years then you must issue the residence card for a shorter period. You must do this when:</p> <ul style="list-style-type: none"><li>• a child applying under regulation 10(3) will finish their education</li></ul>	<p><b>In this section</b></p> <p><a href="#">Decision making: permanent residence or permanent residence where the applicant has a retained right of residence</a></p> <p><a href="#">Decision making: Revoking an existing registration certificate or residence card</a></p> <p><b>Related links</b></p> <p><a href="#">Documents required for retained residence in domestic violence cases</a></p> <p><a href="#">Applicants who are unable to provide all the evidence</a></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p>
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	<ul style="list-style-type: none"> <li>the child of a parent applying under regulation 10(4) will finish their education or reach the age of 21</li> <li>the child of a parent applying under regulation 10(5)(d)(iii) will reach the age of 21.</li> </ul> <p>A parent of a child with a retained right of residence under regulation 10(4) can retain a right where the child is aged 21 or over where the child requires their presence in order to complete their education. However, the parent would need to make a further application at that stage, and provide the relevant evidence to demonstrate this.</p> <p><b>No valid proof provided to show they meet the conditions of regulation 10</b></p> <p>Before you refuse an application on this basis, you must decide whether it is appropriate to make further enquiries. For information on how to do this, see related link: Applicants who are unable to provide all the evidence.</p> <p>For guidance on when to request the EEA national's passport and alternative evidence of identity, see related links:</p> <ul style="list-style-type: none"> <li>Requiring the EEA national's passport or ID card</li> <li>Alternative evidence of identity.</li> </ul> <p><b>Refusals</b></p> <p>You must refuse the application if the applicant:</p> <ul style="list-style-type: none"> <li>has not provided any valid proof of their own or the EEA national sponsor's identity and have not previously been issued with a registration certificate or a residence card</li> <li>provides evidence of their own or the EEA national sponsor's identity that is: <ul style="list-style-type: none"> <li>forged, or</li> <li>counterfeit</li> </ul> </li> <li>has not provided any proof that they are related to the EEA national sponsor</li> <li>ceased to be the family member of an EEA national who was exercising free movement rights in the UK before 30 April 2006, or</li> <li>does not provide enough evidence to show that they meet the conditions of regulation 10.</li> </ul>	<a href="#">Free Movement of Persons Directive (2004/38/EC)</a>  <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a>  <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a>  <a href="#">Immigration (EEA) Amendment Regulations 2012</a>  <a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2013</a>  <a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a>  <a href="#">Immigration (EEA)(Amendment) Regulations 2014</a>
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	<p>For more guidance on refusals, see related link: <a href="#">Refusals and revocations</a></p> <p><b>Appeal rights</b> Regulation 26 was amended with effect from 16 July 2012 so that a right of appeal is available to people claiming to be a family member who has retained the right of residence.</p>	
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Decision making: permanent residence or permanent residence where the applicant has a retained right of residence

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you how to consider applications from family members of European Economic Area (EEA) nationals applying for documents to confirm they have a permanent right of residence in the UK where part of their residence in the UK has been on the basis of a retained right of residence.</p> <p><b>Requirements of regulation 15 of the Immigration (European Economic Area) Regulations 2006 (the Regulations)</b></p> <p>Regulation 15(1)(f) of the Regulations states that someone will have a permanent right of residence in the UK if they:</p> <ul style="list-style-type: none"><li>• have lived in the UK in line with the Regulations for a continuous period of five years, and</li><li>• have a retained the right of residence at the end of the five-year period.</li></ul> <p>If the applicant has not previously applied for a document to confirm either:</p> <ul style="list-style-type: none"><li>• a right of residence as the family member of an EEA national who is exercising free movement rights in the UK, or</li><li>• that they retained a right of residence when they had the change in their circumstances</li></ul> <p>you must make sure that:</p> <ul style="list-style-type: none"><li>• they met the conditions of being the family member of an EEA national who is exercising free movement rights in the UK</li><li>• they met the conditions of regulation 10 at the time of their change in circumstances, and</li><li>• they continued to meet the conditions of regulation 10 until the end of the five-year period of residence.</li></ul> <p>For information on the conditions that must be met to be considered a family member of an</p>	<p><b>In this section</b></p> <p><a href="#">Decision making: registration certificates and residence card to confirm a retained right of residence</a></p> <p><a href="#">Decision making: revoking an existing registration certificate or residence card</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><a href="#">Applicants who are unable to provide all the evidence</a></p> <p><a href="#">Qualified persons: Assessing continuous residence</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive (2004/38/EC)</a></p>
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	<p>EEA national who is exercising free movement rights, see related links:</p> <ul style="list-style-type: none"> <li>• Direct family members of EEA nationals</li> <li>• Extended family member s of EEA nationals.</li> </ul> <p><b>Valid proof provided to show they meet the conditions of regulation 15(1)(f)</b> If the applicant has provided sufficient evidence, then you must issue:</p> <ul style="list-style-type: none"> <li>• a document certifying permanent residence to EEA nationals, or</li> <li>• a permanent residence card to non-EEA nationals.</li> </ul> <p><b>No valid proof provided to show they meet the conditions of regulation 15(1)(f)</b> Before you refuse an application on this basis, you must decide whether it is appropriate to make further enquiries. For information on how to do this, see related link: Applicants who are unable to provide all the evidence.</p> <p><b>Refusals</b> You must refuse the application if the applicant:</p> <ul style="list-style-type: none"> <li>• has not provided any valid proof of their own or the EEA national sponsor's identity and have not previously been issued with a registration certificate or a residence card</li> <li>• provides evidence of their own or the EEA national sponsor's identity that is: <ul style="list-style-type: none"> <li>○ forged, or</li> <li>○ counterfeit</li> </ul> </li> <li>• has not provided any proof that they are related to the EEA national sponsor</li> <li>• ceased to be the family member of an EEA national who was exercising free movement rights in the UK before 30 April 2006, or</li> <li>• does not provide enough evidence to show that they meet the conditions of regulation 15(1)(f).</li> </ul> <p><b>Appeal rights</b> Regulation 26 has been amended with effect from 16 July 2012 so that a right of appeal is</p>	<p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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	available to people claiming to be a family member who has retained the right of residence.	
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Decision making: revoking an existing registration certificate or residence card

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you what to do if family members of European Economic Area (EEA) nationals who have previously been issued with a document confirming their right of residence do not retain that right of residence in the UK.</p> <p><b>Regulation 20(2)</b> Regulation 20(2) of the Immigration (European Economic Area) Regulations 2006 (the regulations) states that a registration certificate or residence card can be revoked if the holder of the certificate or card no longer has a right to reside under the regulations.</p> <p>If the applicant has previously been issued a registration certificate or residence card as the family member of an EEA national exercising free movement rights subsequently makes an application under regulation 10, you must revoke the existing document if:</p> <ul style="list-style-type: none"><li>• they do not satisfy the conditions of regulation 10</li><li>• do not satisfy the regulations in any other capacity</li></ul> <p><b>Change of circumstances – no longer satisfies the conditions in regulation 10</b> If the applicant has been issued a registration certificate or residence card because they satisfy the conditions of regulation 10, you must revoke the document if you become aware that they have had a change in circumstances which means they no longer meet those conditions.</p> <p>In such circumstances you would revoke the document providing the applicant is not self-sufficient or self-employed (a 'qualified person'), and they do not qualify under any other part of the regulations.</p> <p>For example, an applicant who was issued a residence card as evidence of a retained right of residence may no longer meet the conditions of regulation 10 because they stop working. However, if their reason for no longer working is because they married an EEA national who</p>	<p><b>In this section</b> <a href="#">Decision making: registration certificates and residence card to confirm a retained right of residence</a></p> <p><a href="#">Decision making: permanent residence or permanent residence where the applicant has a retained right of residence</a></p> <p><b>Related Links</b> Links to staff intranet removed</p> <p><b>External links</b> <a href="#">Immigration (EEA) Regulations 2006</a> <a href="#">Free Movement of Persons Directive (2004/38/EC)</a> <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p>
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	<p>is exercising free movement rights in the UK, their marriage would give them another reason to be issued with a residence card and so it must not be revoked.</p> <p>For more information on qualified persons, see related link.</p> <p><b>Appeal rights</b> Regulation 26 of the regulations states there is a right of appeal against a revocation of a document confirming a right of residence on this basis where certain evidence has been provided.</p>	<p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p> <p><a href="#">Immigration (EEA) Amendment Regulations 2012</a></p> <p><a href="#">Immigration (EEA Amendment) (no.2) Regulations 2012</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2013</a></p> <p><a href="#">Immigration (EEA) (Amendment)(no. 2) Regulations 2013</a></p> <p><a href="#">Immigration (EEA)(Amendment) Regulations 2014</a></p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Contact

<a href="#">About this guidance</a> <a href="#">Retained rights of residence</a> <a href="#">Documents required for retained rights of residence</a> <a href="#">Making a decision on an application for retained right of residence</a>	<p>This page tells you who to contact for more help with a specific enquiry about family members of a European Economic Area (EEA) national who has retained the right of residence.</p> <p>If you have read the relevant Regulations and this guidance and still need more help with this category, you must first ask your line manager.</p> <p>If the question cannot be answered by your line manager, you can email the free movement operational policy team, using the related link: Email: free movement operational policy team.</p> <p>Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the operational policy team, using the related email: Email: free movement operational policy team, who will ask the GRaFT to update the guidance, if appropriate.</p> <p>The GRaFT will accept feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the related link: Email: guidance, rules and forms team.</p>	<p><b>In this section</b> <a href="#">About this guidance</a> <a href="#">Contact</a> <a href="#">Changes to this guidance</a></p> <p><b>External links</b> Links to staff intranet removed</p>
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## Family members of European Economic Area (EEA) nationals who have retained the right of residence

### Information owner

[About this guidance](#)  
[Retained rights of residence](#)  
[Documents required for retained rights of residence](#)  
[Making a decision on an application for retained right of residence](#)

This page details the information owners for family member of a European Economic Area (EEA) national who has retained the right of residence in the UK guidance.

Version	2.0
Valid from date	7 April 2015
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	27 January 2015
This version approved for publication by	Official – sensitive: information removed
Approver's role	Official – sensitive: information removed
Date of approval	2 March 2015

Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT) If you think the policy content needs amending you must contact free movement operational policy team, who will ask GRaFT to update the guidance, if appropriate.

GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: guidance, rules and forms team.

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**External links**  
Links to staff intranet removed