



Home Office

# European Economic Area (EEA) and Swiss nationals: free movement rights

Version 15.0

This guidance is based on the Immigration (European Economic Area) Regulations 2016 and the Free Movement of Persons Directive 2004/38/EC.

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# About this guidance

This guidance tells you about the free movement rights of European Economic Area (EEA) and Swiss nationals, and who can enter and live in the UK under European Union (EU) law.

The Immigration (European Economic Area) Regulations 2016 (the 2016 regulations) apply and interpret the UK's obligations under the Free Movement of Persons Directive 2004/38/EC (the directive) into domestic law.

The rights given to EEA nationals under these regulations are known as free movement rights. For further information on the regulations or the directive see related links: [Immigration \(European Economic Area\) Regulations 2016](#) and [Free Movement of Persons Directive \(2004/38/EC\)](#).

Switzerland is not part of the EEA, but Swiss nationals and their family members have the same free movement rights as EEA nationals.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Free Movement Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Clearance

Below is information on when this version of the guidance was cleared:

- version 15.0
- published for Home Office staff on **01 February 2017**

## Changes from last version of this guidance

- 1 February 2017 – Changes made to reflect commencement of Immigration (European Economic Area) Regulations 2016
- Placed into the new template

### Related content

[Contents](#)

### Related external links

[Immigration \(European Economic Area\) Regulations 2006](#)  
[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)

# EEA and Swiss nationals: free movement rights

This page shows you the important facts for European Economic Area (EEA) and Swiss nationals wishing to apply for a document confirming their right of residence under the Immigration (European Economic Area) Regulations 2016 (the 2016 regulations).

## Eligibility requirements

To qualify for a registration certificate confirming a right of residence in the UK for longer than 3 months, an EEA national must show:

- evidence of identity
- evidence they are a national of an EEA member state
- evidence they are exercising a free movement right in the UK

## Cost of application

There is a £65 administration charge for each person. EEA family permit applications are still free of charge.

## Residence documents

The right of residence for an EEA or Swiss national and their direct family members does not depend on them holding a document issued under these regulations.

These documents only confirm a right of residence as a qualified person or as a family member at the time the document is issued.

Extended family members must apply for documents under these regulations to have their right of residence confirmed. This is the case even where the extended family member is an EEA national and they are not a qualified person in their own right.

## Validity of documents

Registration certificates and documents certifying permanent residence issued to EEA nationals have no expiry date.

## Dependants

Under the regulations, EEA nationals can bring in direct family members if they meet the conditions of regulation 7 of the 2016 regulations, or extended family members if they meet the conditions of regulation 8.

## Switching

EEA nationals can change the basis of their stay as long as they continue to exercise their free movement rights in the UK. For example, a student can switch to become a worker and count both periods of residence towards acquiring permanent residence.

## Processes and procedures for applying for EEA documentation

For further information on the application process for EEA documentation, please see: Processes and procedures for EEA documentation applications.

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[Immigration \(European Economic Area\) Regulations 2016](#)

[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Countries that qualify

This section tells you which European Economic Area (EEA) country's nationals qualify for free movement rights, and which do not.

For more information see related links:

- [Member states of the European Economic Area](#)
- [Accession states](#)
- [Nationals of Cyprus and Malta](#)
- [The Baltic states](#)
- [Countries that do not qualify for free movement rights](#)

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[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Member states of the European Economic Area

This page tells you the countries whose nationals may exercise free movement rights.

The European Economic Area (EEA) was established on 1 January 1994. As well as European Union (EU) countries, it also allows Iceland, Liechtenstein and Norway to take part in Europe's single market without having to join the EU.

The below shows the EEA member states in alphabetical order.

Austria  
Belgium  
Bulgaria  
Croatia  
Cyprus  
Czech Republic  
Denmark  
Estonia  
Finland  
France  
Germany  
Greece  
Hungary  
Iceland  
Irish Republic  
Italy  
Latvia  
Lichtenstein  
Lithuania  
Luxembourg  
Malta  
Netherlands  
Norway  
Poland  
Portugal  
Romania  
Slovakia  
Slovenia  
Spain  
Sweden  
United Kingdom



## Switzerland

Switzerland is not part of the EEA, but Swiss nationals and their family members also have the same free movement rights as EEA nationals and their family members. For further information see the [Swiss regulations](#).

## Gibraltar

Nationals of Gibraltar have full British citizenship and are considered part of the European Economic Area. This means people from Gibraltar have free movement rights within EEA member states other than the UK, and other EEA nationals may also exercise free movement rights within Gibraltar.

## UK

A British citizen cannot exercise a free movement right in the UK. However, British citizens and their non-EEA national family members can benefit from European law if they meet the criteria established in the case of Surinder Singh. For more information, see related link: [Free movement rights: family members of British citizens](#).

A person who is a national of an EEA member state, and who is also a British citizen is excluded from being treated as an EEA national under regulation 2 of the Immigration (EEA) Regulations 2016, (so-called McCarthy cases). For more information, see related link: [Free Movement Rights: Direct family members of European Economic Area \(EEA\) nationals](#).

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[Immigration \(European Economic Area\) Regulations 2016](#)

[Free Movement of Persons Directive \(2004/38/EC\)](#)

[The Immigration \(Swiss Free Movement of Persons\) \(No. 3\) Regulations 2002](#)

# Accession states

This page tells you about the European Economic Area (EEA) free movement rights of nationals of the accession states.

## The accession states

Countries that joined the European Union (EU) in 2004 and 2007 had conditions placed on their nationals' rights to work in the UK.

## EU8 nationals

Nationals of eight of the 10 countries that joined the EU in 2004 (known as EU8 countries) may enter and live in the UK in the same way as other EEA nationals. The EU8 countries are as follows:

Czech Republic  
Estonia  
Hungary  
Latvia  
Lithuania  
Poland  
Slovakia  
Slovenia

In addition to the EU8 countries Cyprus and Malta joined the EU in 2004. For more information on the free movement rights of nationals of Cyprus and Malta, see related link: [Nationals of Cyprus and Malta](#).

## EU2 nationals

Bulgaria and Romania joined the EU in 2007 (known as EU2 nationals). From 1 January 2014, nationals of these countries no longer needed permission to work before taking employment.

For further information on EU2 and EU8 nationals, see: European Economic Area nationals: qualified persons.

### Croatia

Croatia joined the EU on 1 July 2013. From this date Croatian citizens became European Economic Area (EEA) nationals and like all EEA and Swiss nationals can enter and live in the UK. Croatian nationals wishing to reside in the UK for longer than 3 months as a worker will normally need permission before starting work.

For further information on Croatian nationals and the restrictions which apply, see European Economic Area nationals: qualified persons.

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[Immigration \(European Economic Area\) Regulations 2016](#)

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# Nationals of Cyprus and Malta

This page tells you about the European Economic Area (EEA) rights of free movement of nationals of Cyprus and Malta.

Cyprus and Malta are 2 of the 10 countries that joined the EEA in 2004, but some of their nationals did not have any restrictions placed on their free movement rights.

They are able to live and work in the UK and are allowed registration certificates. Non-EEA family members of nationals from Cyprus and Malta are entitled to have residence cards and EEA family permits.

## Establishing Cypriot nationality

Cyprus remains divided by the 'Green Line' which separates the Turkish Republic of Northern Cyprus from the rest of the island.

The Republic of Cyprus is a full member of the European Union (EU). Anyone who has a passport or other travel document issued by the Republic of Cyprus is allowed free movement rights within the EU.

The Turkish Republic of Northern Cyprus (TRNC) is not recognised by the UK government and is not a member state of the EU. Anyone who has a passport or other travel document issued by TRNC may present them as proof of identity but will not be allowed free movement rights within the EU.

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# The Baltic States

This page tells you about applications from holders of alien passports issued by the Baltic states, Estonia, Latvia or Lithuania.

## Alien passports

You must check all passports submitted to make sure the holder does not have alien status. This includes, but is not limited to, the Baltic States, Estonia, Lithuania or Latvia.

Although they look very similar, alien passports are not proof of European Economic Area (EEA) nationality. Alien passports can be identified by looking at the personal details page, where the holder will be noted as holding an alien's passport.

You must make sure they provide evidence to show they are true nationals of the claimed country and do not have alien status. People with alien status must be treated as non-EEA nationals.

The Estonian authorities may issue identity cards instead of passports to non-Estonian nationals. In these circumstances the identity card will have 'XXX' next to the nationality. If an applicant presents such a card this is not evidence of Estonian nationality.

Latvia and Lithuania do not issue identity cards to alien nationals.

If you receive a valid application from someone claiming to be an EEA national but the passport or identity card they submit does not confirm this, then you must refuse the application on this basis.

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[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Countries that do not qualify for free movement rights

This page tells you which European countries are not included in the European Economic Area (EEA) although they are geographically part of Europe.

## Andorra, Monaco, San Marino and Vatican City

These countries, or micro states, are not part of the European Union (EU) or the EEA. Anyone who holds a passport from one of these states is not regarded as an EEA national and cannot benefit from free movement rights on that basis unless they also hold the nationality of an EEA member state.

## Isle of Man and the Channel Islands

Citizens of these islands are British citizens. However not all citizens of the islands can benefit from European Union (EU) free movement rights. Certain citizens have an endorsement in their passports that says: 'Holder is not entitled to benefit from EC provisions relating to employment or establishment'.

Anyone with this endorsement is not regarded as an EEA national and cannot exercise free movement rights in EEA member states on that basis. An EEA national working or studying in the Isle of Man or Channel Islands is not regarded as exercising free movement rights under the provisions of free movement.

However, under article 6 of Protocol 3 of the UK's Act of Accession, citizens of these islands will be regarded as an EEA national and benefit from free movement rights in member states other than the UK if they have, at any time, been resident in the UK for 5 years, or a parent, or grandparent were either:

- born in the UK
- adopted in the UK
- naturalised in the UK
- registered in the UK

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# Rights of residence

This section tells you the different stages of the rights of residence in the UK for European Economic Area (EEA) nationals.

For more information see related links:

- [Initial rights of residence](#)
- [Extended rights of residence](#)
- [Permanent rights of residence](#)

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[Immigration \(European Economic Area\) Regulations 2016](#)  
[Free Movement of Persons Directive \(2004/38/EC\)](#)

# Initial right of residence in the UK

This page explains the initial right of residence in the UK for European Economic Area (EEA) nationals.

An EEA national can live in the UK for a period of up to 3 months providing they hold either a valid:

- national identity card issued by an EEA state
- passport issued by an EEA state

During this initial period of residence, EEA nationals are not subject to any conditions or formalities other than the requirement to hold a valid identity card or passport.

They do not need to show they are, or will be, exercising free movement rights as a qualified person. For more information on the meaning of a qualified person, see related link: [Qualified persons](#).

An EEA national must not become an unreasonable burden on the social assistance system of the UK during their initial residence.

If they become an unreasonable burden they will cease to have a right of residence and can be removed from the UK in line with regulation 23(6)(a) of the Immigration (EEA) Regulations 2016.

If someone was removed from the UK on grounds of misuse of rights in line with regulation 26(2) within the last 12 months, they do not have an automatic right of admission under regulation 11. For more information on persons removed on grounds of misuse of rights, see: [Misuse of rights and verification of EEA rights](#).

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# Extended right of residence in the UK

This page explains the extended right of residence in the UK for European Economic Area (EEA) nationals.

In line with regulation 14 of the 2016 regulations, an EEA national can continue to live in the UK beyond the initial 3 month period for as long as they are a qualified person, or the family member of a qualified person.

Regulation 6 defines a qualified person as a:

- jobseeker
- worker
- self-employed person
- self-sufficient person
- student

For information on the categories in which an EEA national can be a qualified person, see related links: [Qualified persons](#).

For information see related links:

- Processes and procedures
- Direct family members
- Extended family members

If someone was removed from the UK in line with regulation 26(1) or (2) in the last 12 months, they are not entitled to an extended right of residence under regulation 14 unless they have successfully applied to have the effects of that removal decision set aside by the Secretary of State. For more information, see: [Misuse of rights and verification of EEA rights](#).

## Public policy, public security and public health

This right of residence in the UK is subject to regulation 23(6)(b) of the regulations, which says an EEA national and their family members may be removed from the UK on the grounds of public policy, public security or public health.

For further information see: [Public policy, public security or public health](#).

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# Permanent rights of residence in the UK

This page explains the right of permanent residence in the UK for European Economic Area (EEA) nationals.

An EEA national is automatically entitled to live permanently in the UK once they have lived here continuously for a period of 5 years in line with the current or previous EEA laws.

Although it is not compulsory, those who qualify can apply for a document certifying permanent residence online or using an EEA(PR) application form.

For information on applications for a document certifying permanent residence, see related links: Processes and procedures.

## Permanent residence for nationals of accession states

Nationals of member states which have joined the European Union (EU) since 2004 (EU8 countries, EU2 countries and Croatia) must have met any transitional arrangement which applied to them if they wish to rely on time spent in the UK to get a right of permanent residence.

Nationals of accession states can rely on time spent in the UK before the date on which the member state of which they are a national joined the EU for the purposes of getting a right of permanent residence in certain circumstances.

For further information on this, please see EEA case law - Lassal and Dias.

For more information on permanent residence for nationals of accession states, see: European Economic Area nationals: qualified persons

## Public policy, public security and public health

This right of residence in the UK is subject to regulation 23(6)(b) of the regulations, which say an EEA national and their family members may be removed from the UK on the grounds of public policy, public security or public health.

For further information see: Public policy, public security or public health.

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# EEA free movement rights: British Nationality Act 1981 (BNA 1981)

This section provides guidance on how European Economic Area (EEA) nationals with a right of free movement are considered for the purposes of the British Nationality Act 1981 (BNA 1981).

The only people who are 'nationals of a member state' by virtue of a UK connection, and therefore (in general) entitled to free movement under the European Community (EC) Treaty are:

- British citizens
- British overseas territories citizens who derive their citizenship from a Gibraltar connection
- British subjects under Part IV of the BNA 1981 having the right of abode under section 2 of the Immigration Act 1971

British citizens who are from the Channel Islands or the Isle of Man are excluded from the scope of the free movement provisions. Citizens of the Irish Republic, whether exercising EEA free movement rights or not, are not normally subject to any form of immigration control on arrival in the UK because of the republic's inclusion in the Common Travel Area (section 1(3), of the Immigration Act 1971).

Whether an EEA national is considered to be free of immigration time restrictions, will depend upon the date they apply for citizenship. Whether a child of an EEA national can be considered a British citizen, will depend upon the status of that EEA parent at the date of the child's birth. For more guidance, see: [EEA rights: free of immigration time restrictions.](#)

It is also necessary to assess whether an EEA national is considered in breach of their conditions in the UK. For more information on assessing this, see: [EEA rights: breach of conditions.](#)

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# EEA free movement rights: free of immigration time restrictions

This section provides guidance on when a European Economic Area (EEA) national can be considered to be free of immigration time restrictions. This is for the purposes of assessing whether they qualify for naturalisation, or whether a child born to them in the UK is a British citizen under the British Nationality Act 1981 (BNA 1981).

## Where the relevant date was before 2 October 2000

Evidence that the person concerned was exercising any type of free movement rights in the UK before 2 October 2000 (for example as a worker) must be accepted as evidence that they were not subject to any restriction on the period for which they might remain in the UK. This means they can be treated as if they were settled in the UK.

## Where the relevant date was between 2 October 2000 and 30 April 2006

Between 2 October 2000 (the date the Immigration (EEA) Regulations 2000 came into force) and 30 April 2006 (the date the Immigration (EEA) Regulations 2006 came into force) those who were exercising free movement rights in the UK (for example as workers, self-employed, students and self-sufficient persons) were no longer considered resident in the UK without restriction under the immigration laws on the period for which they might remain.

The following categories of person were still considered to be free of immigration time restrictions:

- self-employed persons who had ceased activity or their family members who were residing with them before that person ceased activity
- the family members of EEA nationals who had died
- a person who has rights under Regulation 1251-70 (for example as EEA workers who had retired)
- a person who has been granted permission to remain in the UK indefinitely

## Where the relevant date was after 30 April 2006

Following commencement of the 2006 regulations, only persons who had acquired a right of permanent residence in the UK in line with regulation 15 of the 2006 regulations were to be considered as free of immigration time restrictions.

The 2000 and 2006 regulations do not affect the position of EEA nationals entitled to remain indefinitely on some other basis, for example because they:

- have been granted indefinite leave to remain under the Immigration Rules
- are entitled by virtue of diplomatic status to exemption from UK immigration control
- benefit under the Common Travel Area provisions as Irish nationals

Persons in this category should continue to be regarded as free from any restriction under the immigration laws on the period for which they may remain.

For example scenarios on when an EEA national can be considered free of immigration time restrictions for the purposes of the BNA 1981, see: [Free of immigration time restrictions scenarios](#).

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# EEA free movement rights: free of immigration time restrictions scenarios

This page provides example scenarios on whether a child can be considered a British citizen depending on the status of their European Economic Area (EEA) national parent. It also covers whether a person is free of immigration time restrictions for the purpose of applying for naturalisation.

## Scenario 1

A German father, employed at the BBC in London, and his Indian wife had a child born legitimately in the UK in 1992. At the time of the birth the couple both had residence permits, but not permission to remain indefinitely. The couple applied for the child's first passport in 1993. In line with section 1(1)(b) of the British Nationality Act 1981 (BNA 1981) the child was treated as a British citizen. This is because the German father was exercising Treaty rights in the UK as a worker at the time of the child's birth, and was therefore considered free of immigration time restrictions.

The couple's second child was born in the UK, in 2002. Their circumstances remain the same as before. In line with the 2000 regulations neither parent can be considered to have been settled at the time of this child's birth. The child is not, therefore, a British citizen and, as such, is not eligible for a UK passport.

## Scenario 2

A Belgian national applied for naturalisation on 10 September 2000. He had been employed in the UK since 1994, but, as at 10 September 2000, had not been granted permission to remain indefinitely. He is eligible for naturalisation and should be treated as having been resident without time restrictions until the 2000 regulations came into force on 2 October 2000.

A French national whose circumstances are similar to those of the applicant above applied for naturalisation on 10 October 2000. By this time the 2000 regulations had come into force and, in line with regulation 8 of the 2000 regulations, the applicant could not then be treated as free of immigration time restrictions.

## Scenario 3

A child is born in the UK on 10 May 2006 to a Portuguese mother and an Indian father. Neither parent has been granted indefinite leave to remain but by the time of the birth the mother has been exercising Treaty rights in the UK, as a worker, for 6 years. The child is a British citizen at birth under section 1(1)(b) of the BNA 1981.

## Scenario 4

An Italian national applies for naturalisation under section 6(1) of the BNA 1981 on 4 May 2006. By that date he has been exercising Treaty rights in the UK, as a worker, for 6 years. However, he has never previously applied for or been granted indefinite leave to remain.

The effect of the 2000 and 2006 regulations is that, for BNA 1981 purposes, he has been free of immigration time restrictions since 30 April 2006 but was not free of immigration time restrictions before that date.

Consideration should be given to the possible exercise of discretion under paragraph 2(c) of schedule 1 to the BNA 1981 to accept a shorter period of freedom from immigration time restrictions than the 12 months normally required.

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# EEA free movement rights: breach of the immigration laws

This section explains whether a European Economic Area (EEA) national can be considered in breach of the immigration laws under section 11 of the Nationality, Immigration and Asylum Act 2002.

If an EEA national remains in the UK without a right of residence and without leave under the Immigration Act then they will be subject to restrictions on the period for which they can remain in the UK.

A person will be in breach of the immigration laws under section 11 of the Nationality, Immigration and Asylum Act 2002 at any time when they:

- require permission to be in the UK
- do not have such permission

The provision is deemed always to have had effect, except in relation to persons who had rights of residence in the UK under European Union Community law either:

- on 7 November 2002
- at any time following their most recent arrival in the UK before that date

Where either of the above applies, the person should only be regarded as having remained in breach of the immigration laws before 7 November 2002 if the individual was then in the UK in breach of a deportation or removal order.

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# EEA free movement rights: breach of the immigration laws - scenarios

This page provides example scenarios on when a European Economic Area (EEA) national is considered in breach of the immigration laws for the purposes of the British Nationality Act 1981 (BNA 1981).

## Scenario 1

Paolo, an Italian citizen, came to the UK for employment in 1997. He voluntarily left work on 1 December 2000. No deportation or removal order was made against him, and he has remained without any right of residence under community law, and without leave, ever since. Paolo has been in the UK in breach of the immigration laws only since 7 November 2002, when section 11 of the Nationality, Immigration and Asylum Act 2002 came into force. His residence here between 1 December 2000 and 6 November 2002, although unauthorised, should not be regarded as a breach.

## Scenario 2

Sabine, a French citizen, enrolled as a student in October 1990. Her course ended in June 1993. She then remained in the UK without leave and without any entitlement under community law. No deportation or removal order was made against her. In 1996 she commenced employment, and this has continued to the present day. Sabine should not be treated as having been in the UK in breach of the immigration laws at any time.

## Scenario 3

Colette, a Belgian citizen, came to the UK for a holiday in August 2003 but then remained without permission or entitlement under community law. Any residence in the UK after her entitlement under community law came to an end was residence in breach of the immigration laws.

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