

This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC



Home Office

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

This guidance is based on the Immigration (European Economic Area) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

## European Economic Area (EEA) and Swiss nationals – Free movement rights

### About this guidance

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to the UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by case law</a></p>	<p>This guidance tells you about the free movement rights of nationals of the European Economic Area (EEA) and Swiss nationals, and who can enter and live in the UK under European Community (EC) law.</p> <p>The Immigration (EEA) Regulations 2006 apply and interpret the UK's obligations under the Free Movement of Persons Directive 2004/38/EC into domestic law. The right given to EEA nationals under these regulations is known as free movement rights.</p> <p>Switzerland is not part of the EEA, but Swiss nationals and their family members have the same free movement rights as EEA nationals.</p> <p>Changes to this guidance - This page tells you what has changed since the previous version of this guidance.</p> <p>Contact - This page tells you who to contact for more help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner - This page tells you about this version of the 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></p> <p><a href="#">Contacts</a></p> <p><a href="#">Information owner</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> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Changes to this guidance

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This page lists changes to the European Economic Area (EEA) free movement rights guidance with the most recent at the top.</p> <table border="1"> <thead> <tr> <th data-bbox="474 391 813 432">Date of the change</th> <th data-bbox="813 391 1516 432">Details of the change</th> </tr> </thead> <tbody> <tr> <td data-bbox="474 432 813 991">2 October 2013</td> <td data-bbox="813 432 1516 991"> <p>Change request:</p> <ul style="list-style-type: none"> <li>• Rights of admission to UK:                             <ul style="list-style-type: none"> <li>○ second paragraph, new third bullet point and amended fifth bullet point</li> </ul> </li> <li>• Conditions of free movement rights:                             <ul style="list-style-type: none"> <li>○ sub-heading ‘Qualified person’, second paragraph, first sentence has added to the end, ‘although this is not compulsory’</li> <li>○ new section at fourth paragraph inserted, beginning ‘Article 14(2) of the Free Movement of Persons Directive states:’.</li> </ul> </li> </ul> </td> </tr> <tr> <td data-bbox="474 991 813 1217">21 August 2013</td> <td data-bbox="813 991 1516 1217"> <p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"> <li>• Minor housekeeping and plain English changes.</li> </ul> </td> </tr> <tr> <td data-bbox="474 1217 813 1401"></td> <td data-bbox="813 1217 1516 1401"> <p>For previous changes to this guidance you will find all earlier versions in the archive.</p> <p>See related link: EEA free movement rights - archive.</p> </td> </tr> </tbody> </table>	Date of the change	Details of the change	2 October 2013	<p>Change request:</p> <ul style="list-style-type: none"> <li>• Rights of admission to UK:                             <ul style="list-style-type: none"> <li>○ second paragraph, new third bullet point and amended fifth bullet point</li> </ul> </li> <li>• Conditions of free movement rights:                             <ul style="list-style-type: none"> <li>○ sub-heading ‘Qualified person’, second paragraph, first sentence has added to the end, ‘although this is not compulsory’</li> <li>○ new section at fourth paragraph inserted, beginning ‘Article 14(2) of the Free Movement of Persons Directive states:’.</li> </ul> </li> </ul>	21 August 2013	<p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"> <li>• Minor housekeeping and plain English changes.</li> </ul>		<p>For previous changes to this guidance you will find all earlier versions in the archive.</p> <p>See related link: EEA free movement rights - archive.</p>	<p><b>Related links</b></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><b>See also</b></p> <p><a href="#">Contacts</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Rights of admission to UK

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to the UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by case law</a></p>	<p>This page tells you about the rights of admission to the UK for European Economic Area (EEA) nationals.</p> <p>EEA nationals and their family members do not need permission, under the Immigration Rules, to enter the UK to:</p> <ul style="list-style-type: none"><li>• live</li><li>• work</li><li>• be self-employed</li><li>• study, or</li><li>• reside as self-sufficient persons under European Community (EC) law.</li></ul> <p>This right is given under the Immigration (EEA) Regulations 2006 (the regulations) and the Free Movement Directive (2004/38/EC). For more information, see related links.</p> <p><b>Right of admission to the UK</b></p> <p>Under regulation 11 an EEA national must show a valid national identity card or passport issued by an EEA state.</p> <p><b>Initial right of residence</b></p> <p>Under regulation 13 an EEA national can live in the UK for up to three months.</p> <p>For right of admission and residence, see related links:</p> <ul style="list-style-type: none"><li>• Immigration (EEA) Regulations 2006</li><li>• The Immigration (EEA) (Amendment) Regulations 2009</li><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul> <p><b>Extended right of residence</b></p> <p>Regulation 14 gives an EEA national extended rights to remain in the UK, if they continue to</p>	<p><b>Downloads</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> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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	<p>meet the condition of being a 'qualified person'. For more information, see link on left: <a href="#">Conditions of free movement rights</a>.</p> <p><b>Permanent right of residence</b> Under regulation 15 an EEA national can live in the UK permanently if they exercise free movement rights continuously for five years. For more information, see related link: <a href="#">Immigration (EEA) Regulations 2006</a>.</p> <p>For guidance on permanent residence applications from EEA nationals, see related link: <a href="#">06 Permanent residence</a>.</p> <p><b>Refusing admission</b> You can refuse an EEA national admission or remove them from the UK on the grounds of public policy, security or health under regulation 19 of the Immigration (EEA) Regulations 2006. For more information, see related link: <a href="#">08 Enforcement action taken against EEA nationals and family members</a>.</p>	
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Countries that qualify

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This section tells you which European Economic Area (EEA) country's nationals qualify for free movement rights, including permission to work and why.</p> <p><b>Member states of the European Economic Area (EEA)</b> The 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. For a list of countries, see related link: <a href="#">European Economic Area member states and Switzerland</a>.</p> <p><b>The accession states</b> Countries who joined the European Union in 2004 and 2007 had conditions placed on their nationals' rights to work in the UK. For more information, see related link: <a href="#">Who needs permission to work</a>.</p> <p><b>Switzerland</b> Switzerland is not part of the EEA, but Swiss nationals and their family members have the same free movement rights. For more information on Swiss nationals, see related link: <a href="#">European Economic Area member states and Switzerland</a>.</p> <p><b>Countries that do not qualify</b> Certain European countries are not included in the EEA, although they are geographically part of Europe. For more information, see related link: <a href="#">Countries that do not qualify</a>.</p> <p>For information on the how EEA and Swiss nationals can enter, live and work in the UK, see related link: <a href="#">European nationals</a>.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• <a href="#">Immigration (EAA) Regulations 2006</a></li><li>• <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></li><li>• <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></li></ul>	<p><b>In this section</b></p> <p><a href="#">European Economic Area member states and Switzerland</a></p> <p><a href="#">Nationals of Cyprus and Malta</a></p> <p><a href="#">Countries that do not qualify</a></p> <p><a href="#">Who needs permission to work</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>
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This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

	<ul style="list-style-type: none"><li>• Free Movement of Persons Directive (2004/38/EC).</li></ul>	<a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a> <a href="#">European nationals</a>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### European Economic Area member states and Switzerland

[About this guidance](#)

[Rights of admission to UK](#)

[Countries that qualify](#)

[The Swiss agreement and posted workers](#)

[Conditions of free movement rights](#)

[Principles established by caselaw](#)

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

#### EEA member states

The table below shows the European Economic Area (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	Liechtenstein	Lithuania	Luxembourg
Malta	Netherlands	Norway	Poland	Portugal
Romania	Slovakia	Slovenia	Spain	Sweden
UK				

Nationals of Gibraltar, who have full British citizenship and are considered part of the European Economic Community and have rights of free movement within EEA member states other than the UK.

#### Switzerland

On 1 June 2002 the agreement between the European Community, its member states and the Swiss Confederation on free movement rights came into force. The agreement gives Swiss nationals and their family members the same free movement rights as EEA nationals and their family members.

The Immigration (EEA) Regulations 2006 replaced the Immigration (Swiss Free Movement of Persons) (No 3) Regulations 2002 except for the paragraphs on posted workers. The Immigration (EEA) Regulations 2006 include Swiss nationals in the definition of EEA nationals.

For information on how to grant posted worker authorisation for non EEA or Swiss nationals who come to the UK to provide services for a Swiss national or company, see link on left:

#### In this section

[Nationals of Cyprus and Malta](#)

[Countries that do not qualify](#)

[Who needs permission to work](#)

#### External links

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

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

[Immigration \(EEA\) Regulations 2006](#)

[The Immigration \(EEA\) \(Amendment\) Regulations 2009](#)

This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

	<p>The Swiss agreement and posted workers.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002</li><li>• Free Movement of Persons Directive 2004/38/EC</li><li>• Immigration (EEA) Regulations 2006</li><li>• The Immigration (EEA) (Amendment) Regulations 2009</li><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul>	<p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Nationals of Cyprus and Malta

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This page tells you about the European Economic Area (EEA) free movement rights for nationals of Cyprus and Malta.</p> <p>Cyprus and Malta are two of the 10 countries that joined the EEA in 2004, their nationals do not have any restrictions on their free movement rights. They are able to live and work in the UK and are allowed registration certificates. Family members of nationals from Cyprus and Malta are entitled to have residence cards and EEA family permits.</p> <p><b>Establishing Cypriot nationality</b></p> <p>Cyprus remains divided by the ‘green line’ which separates the Turkish Republic of Northern Cyprus (TRNC) from the rest of the island.</p> <p>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 entitled to free movement rights within the EU.</p> <p>The British government does not recognise TRNC and it 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 would not be entitled to free movement rights within the EU.</p>	<p><b>In this section</b></p> <p><a href="#">European Economic Area member states and Switzerland</a></p> <p><a href="#">Countries that do not qualify</a></p> <p><a href="#">Who needs permission to work</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Countries that do not qualify

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you which European countries are not included in the European Economic Area (EEA) although they are geographically part of Europe.</p> <p><b>Andorra, Monaco and San Marino</b> Anyone who holds a passport from these three countries is not entitled to free movement rights and cannot exercise treaty rights in EEA member states.</p> <p><b>Isle of Man and the Channel Islands</b> Citizens of the Isle of Man or Channel Islands are exempt from European Community free movement rights. An endorsement in their passports says, 'Holder is not entitled to benefit from EC provisions relating to employment or establishment'.</p> <p>Anyone from these countries who has a passport with this endorsement cannot exercise free movement rights in EEA member states. An EEA national working or studying in the Isle of Man or Channel Islands cannot exercise treaty free movement rights.</p>	<p><b>In this section</b></p> <p><a href="#">European Economic Area member states and Switzerland</a></p> <p><a href="#">Nationals of Cyprus and Malta</a></p> <p><a href="#">Who needs permission to work</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Who needs permission to work

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This page tells you which European Economic Area (EEA) nationals need to register or get permission before they can work in the UK.

10 countries joined the European Union (EU) in 2004. A further two countries joined in 2007. These countries are referred to as accession countries. Although all EEA and Swiss nationals are allowed to support themselves by working in the UK, nationals of the 2007 accession countries have conditions placed on their right to work in the UK.

#### A8 nationals

Nationals of eight of the 10 countries that joined the EU in 2004 (known as A8 countries) can enter and live in the UK. The workers registration scheme (WRS) ended on 30 April 2011. As of 1 May 2011 nationals of the A8 countries can apply for a registration certificate in line with any other EEA national.

The A8 countries are:

Czech Republic	Estonia	Hungary	Latvia
Lithuania	Poland	Slovakia	Slovenia

#### A8 nationals permanent residence

A8 nationals applying for a document certifying permanent residence must continue to show they have lived in line with the EEA regulations for five years. This includes any period of time when they were registered on WRS.

The remaining two countries that joined the EU in 2004, Cyprus and Malta, have not had conditions placed on their nationals' right to work in the UK. For more information on the free movement rights of nationals of Cyprus and Malta, see related link: Nationals of Cyprus and Malta.

#### Bulgaria and Romania nationals

Bulgaria and Romania (known as A2 countries) joined the EU in 2007. Nationals of these

#### In this section

[European Economic Area member states and Switzerland](#)

[Nationals of Cyprus and Malta](#)

[Countries that do not qualify](#)

#### Related links:

Links to staff intranet removed

countries have the same right to enter and live in the UK as other EEA nationals. But unless free from control, nationals of these countries need permission to work before taking employment.

For guidance on processing these cases see related links:

- Bulgarian and Romanian casework - application process
- Bulgarian and Romanian casework - blue registration certificate
- Bulgarian and Romanian casework - yellow registration certificate
- Bulgarian and Romanian casework – purple accession worker card
- Bulgarian and Romanian casework - family members
- Bulgarian and Romanian casework - tell applicant of decision or action.

## European Economic Area (EEA) and Swiss nationals – Free movement rights

### The Swiss agreement and posted workers

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This section tells you about the rights given under the 2002 Swiss Agreement for non EEA or Swiss nationals who come to the UK to provide services for a Swiss national or a Swiss company as a posted worker and how to grant posted worker authorisation.</p> <p>The 2002 Swiss Agreement allows a Swiss national or Swiss company that does business in the UK to send employees to provide services on their behalf for up to 90 days without needing permission to work. These people are known as ‘posted workers’.</p> <p>For a company to qualify, it must show it meets with the law of Switzerland and has its registered office, central administration or principal place of business in Switzerland.</p> <p>The posted worker must have been previously employed in Switzerland or an EEA country.</p> <p>Family members are not allowed to accompany posted workers to the UK.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"> <li>• Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002</li> <li>• Free Movement of Persons Directive 2004/38/EC</li> <li>• Immigration (EEA) Regulations 2006</li> <li>• The Immigration (EEA) (Amendment) Regulations 2009</li> <li>• The Immigration (EEA) (Amendment) Regulations 2011.</li> </ul>	<p><b>In this section</b></p> <p><a href="#">Granting posted worker authorisation</a></p> <p><a href="#">Rejecting an application to extend posted worker authorisation</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002</a></p> <p><a href="#">Free Movement of Persons Directive 2004/38/EC</a></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Granting posted worker authorisation

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This page tells you how to consider a grant for posted worker.</p> <p>To enter the UK, a posted worker must apply for authorisation from an entry clearance issuing post in a country they are lawfully resident in. This allows the person to live in the UK for a maximum of 90 days, either in one go, or for smaller periods totalling 90 days per calendar year. This time limit must be shown on the authorisation.</p> <p>Posted workers have a right to come to the UK, but they do not require leave to enter. Their passports will need to be date stamped to show the date of entry. Posted workers do not require residence cards.</p> <p>Before granting posted worker authorisation, the entry clearance officer (ECO) must be satisfied the person is:</p> <ul style="list-style-type: none"><li>• lawfully resident in the member state, including Switzerland, they are applying from, either as a permanent resident or with permission to work such as a work permit</li><li>• legally and consistently employed for at least 12 months by an employer who is temporarily providing a service in the UK, and</li><li>• not seeking any other employment and intends to leave the UK after they have spent a maximum of 90 days in the UK in any calendar year.</li></ul> <p>A person who meets the criteria for posted worker authorisation can only be excluded from the UK on the grounds of public policy, security or health.</p>	<p><b>In this section</b></p> <p><a href="#">Rejecting an application to extend posted worker authorisation</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Rejecting an application to extend posted worker authorisation

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This page tells you how to reject an application to extend posted worker authorisation.</p> <p>A person can only be allowed a right to live in the UK as a posted worker for a maximum of 90 days during any calendar year. No extension can be granted for the same calendar year beyond this time.</p> <p>You must consider applications to extend posted worker authorisation under the following regulations:</p> <ul style="list-style-type: none"><li>• Schedule 3, part 2 of the Immigration (EEA) Regulations 2006, see related link: Immigration (EEA) Regulations 2006, and</li><li>• Regulation 13A (c) of the Immigration (European Economic Area) Regulations 2000 as amended by the Immigration (Swiss Free Movement of Persons) (No 3) Regulations 2002, see related link: Immigration (Swiss Free Movement of Persons) (No 3) Regulation 2002.</li></ul> <p>When refusing an application on this basis, you must use the following wording in a letter:</p> <p>‘You have applied for a right to reside in the UK as a posted worker under the provisions of the Immigration (Swiss Free Movement of Persons) (No 3) Regulations 2002.</p> <p>I have considered your application under regulation 13a (c) of the Immigration (European Economic Area) Regulations 2000 as amended by the Immigration (Swiss Free Movement of Persons) (No 3) Regulations 2002.</p> <p>I have rejected your application because you have already had authority to enter and live in the UK for 90 days in this calendar year. You are not entitled to apply for further authorisation for this year’.</p> <p><b>Appeal rights</b> There is no right of appeal in the Immigration (Swiss Free Movement of Persons)</p>	<p><b>In this section</b></p> <p><a href="#">Granting posted worker authorisation</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Immigration Act 1999, section 10</a></p> <p><a href="#">Immigration (Swiss Free Movement of Persons)(No.3) Regulations 2002</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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Regulations 2000 against this decision.

**Taking removal enforcement action**

If a person is refused an extension as a posted worker, they can no longer stay in the UK on this basis. You must grant the applicant leave outside the Immigration Rules for a short period and ask them to make arrangements to leave the UK within this timescale before taking action to enforce departure.

If they do not leave, you can take action under Section 10 of Immigration Act 1999 – see related link. There is no right of appeal under Section 82 of the Nationality and Immigration Act 2002 against the imposition of leave.

For more information, see related links:

- Immigration Act 1999, section 10
- Immigration (EEA) Regulations 2006
- The Immigration (EEA) (Amendment) Regulations 2009
- The Immigration (EEA) (Amendment) Regulations 2011.

## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Conditions of free movement rights

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This section tells you how a European Economic Area (EEA) national in the UK can show they are exercising free movement rights.</p> <p>It tells you how a British national returning to the UK from working in another member state can be accompanied by family members from outside the EEA.</p> <p>An EEA national must show a national identity card or a passport issued by an EEA state as proof of their nationality before they can enter the UK. Once they enter the UK, they can live here for up to three months under regulation 13 of the Immigration (EEA) Regulations 2006, see related link.</p> <p>Under regulation 14 of the Immigration (EEA) Regulations 2006, an EEA national can continue to have an extended right of residence with no requirement for leave to remain, if they continue to meet the condition of being a ‘qualified person’.</p> <p><b>Qualified person</b></p> <p>Under regulation 6 of the Immigration (EEA) Regulations 2006, a qualified person is an EEA national who is in the UK and exercising free movement rights in any of the following categories:</p> <ul style="list-style-type: none"> <li>• job seekers</li> <li>• worker</li> <li>• self-employed person</li> <li>• self-sufficient person</li> <li>• student.</li> </ul> <p>EEA nationals who can show they meet these criteria can apply for documentation to show their right of residence, although this is not compulsory. For more information, see regulation 16 of the Immigration (EEA) Regulations 2006, see related link.</p>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Students</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</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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Different rules apply to British citizens and their non-EEA family members who have exercised free movement rights in another member state. For more information, see related link: [British nationals with family members from outside the EEA.](#)

Article 14(2) of the Free Movement of Persons Directive states:

'Union citizens and their family members shall have the right of residence provided for in Articles 7, 12 and 13 as long as they meet the conditions set out therein.

In specific cases where there is a reasonable doubt as to whether a Union citizen or his/her family members satisfies the conditions set out in Articles 7, 12 and 13, Member States may verify if these conditions are fulfilled. This verification shall not be carried out systematically.'

This means that an EEA national, or the family member of an EEA national, has a right of residence for as long as they:

- are a qualified person
- are the family member of a qualified person, or
- have retained the right of residence.

This is the case even if the person has not been issued with residence documentation.

In specific cases of doubt, the Home Office may take steps to verify that the EEA national or their family member meets the relevant conditions. Article 14(2) does not permit member states to carry out these checks on a systematic basis. The Home Office will therefore only carry out checks if it receives new or relevant information which suggests that the person does not meet, or no longer meets, the relevant conditions, or there are objective factors which justify further investigation.

For more information on the different categories, see related links:

- Job seekers
- Worker
- Self-employed person

[The Immigration \(EEA\) \(Amendment\) Regulations 2009](#)

[The Immigration \(EEA\) \(Amendment\) Regulations 2011](#)

This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

- Students
- Assessing sufficient resources.

For more information, see related links:

- The Immigration (EEA) (Amendment) Regulations 2009
- Immigration (EEA) Regulations 2006
- The Immigration (EEA) (Amendment) Regulations 2011
- Free Movement of Persons Directive 2004/38/EC.

## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Job seekers

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you what to consider if a European Economic Area (EEA) national wants to show they are a qualified person exercising free movement rights in the UK as a job seeker.</p> <p>Unless they need to get permission to work, an EEA national can exercise free movement rights in the UK as a job seeker. Under regulation 6(4) of the Immigration (EEA) Regulations 2006, they must show they are actively seeking work and have a realistic chance of finding work. For more information, see related link: Immigration (EEA) Regulations 2006.</p> <p>If an EEA national says they are exercising free movement rights as a qualified person in this category, you must check there is sufficient evidence to show they are seeking work and they have a realistic chance of getting employment. For example:</p> <ul style="list-style-type: none"> <li>• academic, vocational qualifications or other experience</li> <li>• job application forms</li> <li>• letters of invite to interview</li> <li>• rejection letter from employers</li> <li>• Jobcentre Plus registration documents</li> <li>• evidence of academic or professional qualifications, or</li> <li>• evidence of other experience.</li> </ul> <p>A job seeker can exercise free movement rights as a self-sufficient person. For more information, see related link: Self-sufficient person.</p> <p>EEA nationals in the UK as a job seeker are expected to be able to support themselves. They can claim public funds under European Community law without losing their right of residence. For more information about public funds, see related link. For help with a specific case, speak to your line manager or a senior caseworker.</p> <p>An EEA national who provides sufficient evidence to show they are exercising free movement rights in the UK as a job seeker can apply for a registration certificate. For more information on this, see related link: Registration certificates.</p>	<p><b>In this section</b></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Students</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Registration certificates</a></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA)</a></p>
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This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

	<p>For guidance on processing applications for a registration certificate, see related link: 04 Registration certificate applications.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Registration certificates</li><li>• Immigration (EEA) Regulations 2006</li><li>• The Immigration (EEA) (Amendment) Regulations 2009</li><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul>	<p><a href="#">(Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Worker

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you the information to consider if a European Economic Area (EEA) national wants to show they are a qualified person exercising free movement rights in the UK as a worker.</p> <p>An EEA national can exercise free movement rights in the UK as a qualified person if they are doing genuine paid work, carried out under the direction of someone else, on a full-time or part-time basis.</p> <p>You must check and see there is sufficient evidence to show they are working, for example, an employment contract or pay slips.</p> <p>EEA nationals who are in the UK as a worker are expected to be able to support themselves. They can claim public funds under European Community law without losing their right of residence. For more information about what constitutes a public fund, see related link: Public funds.</p> <p>For help with a specific case, speak to your line manager or a senior caseworker.</p> <p>Under regulation 6(2) of the Immigration (EEA) Regulations 2006, if an EEA national stops working, they can still be considered a qualified person if they are:</p> <ul style="list-style-type: none"> <li>• temporarily unable to work because of an illness or accident</li> <li>• involuntarily unemployed and have started vocational training, or</li> <li>• voluntarily stopped working and started on vocational training related to their previous employment.</li> </ul> <p>They can also still qualify if:</p> <ul style="list-style-type: none"> <li>• they have registered as a job seeker and were employed for at least a year before becoming unemployed</li> <li>• have been unemployed for no more than six months, or</li> </ul>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Students</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</a></p> <p><a href="#">Who needs permission to work</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Registration certificates</a></p> <p><a href="#">Immigration (EEA)</a></p>
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	<ul style="list-style-type: none"><li>• can provide evidence they are seeking employment in the UK and have a genuine chance of being engaged.</li></ul> <p>For more information on regulation 6(2) of the Immigration (EEA) Regulations 2006, see related link: Immigration (EEA) Regulations 2006. For information on which EEA nationals need permission to work in the UK, see related link: Who needs permission to work.</p> <p><b>Charity work</b></p> <p>An EEA national doing unpaid charitable work does not qualify as exercising free movement rights as a worker, although they can qualify as being self-sufficient if they show they have enough funds to support themselves, or a charity is meeting their living costs. For more information, see related link: Self-sufficient person.</p> <p>If they provide sufficient evidence to show they are exercising free movement rights in the UK as a worker they can apply for a registration certificate. For more information on who can apply, see related link: Registration certificates.</p> <p>For guidance on processing applications for a registration certificate, see related link: 04 Registration certificate applications.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Registration certificates</li><li>• Immigration (EEA) Regulations 2006</li><li>• The Immigration (EEA) (Amendment) Regulations 2009</li><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul>	<p><a href="#">Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Self-employed person

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you what information to consider if a European Economic Area (EEA) national wants to show they are a qualified person exercising free movement rights in the UK as a self-employed person.</p> <p>An EEA national can exercise free movement rights in the UK as a qualified person if they are self-employed and registered for income tax and national insurance as a self-employed person with HM Revenue &amp; Customs (HMRC).</p> <p>If an EEA national says they are exercising free movement rights as a qualified person in this category, you must check there is evidence to support this.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• proof of registration with HMRC</li> <li>• invoices for work done</li> <li>• a copy of business accounts</li> <li>• an accountant’s letter or other similar documents.</li> </ul> <p>For more information on self-employment, refer to the HMRC website. See related link: Employment status.</p> <p>Under regulation 6(3) of the Immigration (EEA) Regulations 2006, if an EEA national exercising free movement rights as a self-employed person is temporarily unable to work because of illness or accident, they can still be classed as self-employed.</p> <p>An EEA national exercising free movement rights as a self-employed person can claim public funds like top up benefits for low paid workers or benefits for the involuntarily unemployed without their right of residence being affected. For more information on what constitutes a public fund, see related link: Public funds.</p> <p>For help with a specific case, speak to your line manager or a senior caseworker.</p>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Students</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Registration certificates</a></p> <p><a href="#">Employment status</a></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p>
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	<p>An EEA national who provides sufficient evidence to show they are exercising free movement rights in the UK as a self-employed person can apply for a registration certificate. For more information on how an EEA national can apply for a registration certificate, see related link: <a href="#">Registration certificates</a>.</p> <p>For guidance on processing applications for a registration certificate, see related link: <a href="#">04 Registration certificate applications</a>.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></li><li>• <a href="#">Immigration (EEA) Regulations 2006</a></li><li>• <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a>.</li></ul>	<p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Self-sufficient person

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you what information to consider if a European Economic Area (EEA) national wants to show they are a qualified person exercising free movement rights in the UK in a self-sufficient capacity.</p> <p>An EEA national can exercise free movement rights in the UK as a qualified person if they have:</p> <ul style="list-style-type: none"> <li>• enough money to cover their living expenses without claiming benefits in the UK, and</li> <li>• comprehensive sickness insurance in the UK for themselves and any family members.</li> </ul> <p>For information on how to assess if an applicant and their family members have sufficient resources see related link: <a href="#">Assessing sufficient resources</a>.</p> <p>EEA nationals who are in the UK in a self-sufficient capacity are expected to be able to support themselves. They can lose their right of residence if they claim certain public funds in the UK. For more information on public funds, see related link.</p> <p>For help with a specific case, speak to your line manager or a senior caseworker.</p> <p>A retired person can qualify as self-sufficient if they can show they receive a pension or have enough income from other sources for example, investments, to cover their living expenses without needing to claim benefits in the UK.</p> <p>An EEA national who can provide sufficient evidence to show they are exercising free movement rights in the UK in a self-sufficient capacity can apply for a registration certificate. For more information on who can apply, see related link: <a href="#">Registration certificates</a>.</p> <p>For guidance on processing applications for a registration certificate, see related link: <a href="#">04 Registration certificate applications</a>.</p> <p><b>Charity work</b></p>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Students</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Registration certificates</a></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA)</a></p>
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	<p>An EEA national doing charity work can qualify as self-sufficient if they can show they have enough funds to support themselves, or a charity is meeting their living costs. For example, a volunteer can qualify as self-sufficient if their living costs are being met by the charity organisation they work for.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Immigration (EEA) Regulations 2006</li><li>• The Immigration (EEA) (Amendment) Regulations 2009</li><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul>	<p><a href="#">(Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Students

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you the information to consider if a European Economic Area (EEA) national wants to show they are a qualified person exercising free movement rights in the UK as a student.</p> <p>An EEA national can exercise free movement rights in the UK as a qualified person if they are a student who is::</p> <ul style="list-style-type: none"> <li>• Enrolled to follow a course of study at a private or public educational establishment recognised as an education or training provider that complies with the Immigration (EEA) Regulations 2006. You can download the register of sponsors under the points-based system (PBS) which shows organisations licensed under Tier 4 using the related link.</li> <li>• Able to show they have enough money to meet their living expenses. You can accept evidence such as:             <ul style="list-style-type: none"> <li>○ bank statements</li> <li>○ other evidence of the award of a grant or sponsorship, or</li> <li>○ a written declaration by the student they have enough money.</li> </ul> </li> <li>• Registered on a course of study that has started.</li> <li>• Able to show they have comprehensive sickness insurance.</li> </ul> <p>If the organisation is not listed on the register of sponsors under the PBS, you must check the archived register of education and training providers. See related link: Register of education and training providers.</p> <p>You can continue to accept organisations on this list as complying with the Immigration (EEA) Regulations 2006 unless you are satisfied:</p> <ul style="list-style-type: none"> <li>• the organisation is not genuine, or</li> <li>• the EEA national is not enrolled at the organisation.</li> </ul> <p>For information on what education providers must show to be accepted as a Tier 4 sponsor,</p>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Register of sponsors under the points-based system</a></p> <p><a href="#">Register of education and training providers</a></p>
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	<p>see related link: <a href="#">Policy guidance for Tier 4 sponsors</a>.</p> <p>For help with a specific case, speak to your line manager or a senior caseworker.</p> <p>For information on how to assess if an applicant and their family members have enough resources see related link: <a href="#">Assessing sufficient resources</a>.</p> <p>EEA nationals who are in the UK as a student are expected to be able to support themselves. They can lose their right of residence if they claim certain public funds in the UK. For more information about public funds, see related link. For help with a specific case, speak to your line manager or a senior caseworker.</p> <p>An EEA national who provides enough evidence to show they are exercising free movement rights in the UK as a student can apply for a registration certificate. For guidance on processing applications for a registration certificate, see related link: <a href="#">04 Registration certificate applications</a>.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• <a href="#">Immigration (EEA) Regulations 2006</a></li><li>• <a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></li><li>• <a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a>.</li></ul>	<p><a href="#">Policy guidance for Tier 4 sponsors</a></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Assessing sufficient resources

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you how to assess if a European Economic Area (EEA) national self-sufficient person or student and their family members have sufficient resources.</p> <p>The Immigration (EEA) Regulations 2006 (the regulations) state a European Economic Area (EEA) national self-sufficient person or student and their family members must have enough resources not to become a burden on the social assistance system of the UK.</p> <p>When deciding if an EEA national and their family members have enough resources you must first check if they exceed the maximum level of resources a UK national and their family members can have to get social assistance under the UK benefit system.</p> <p>If they exceed the maximum level you must accept they have enough resources.</p> <p><b>Exceeding the maximum level of resources to qualify for social assistance</b> They will exceed this level if they provide documents showing they have enough resources to cover their essential outgoings. For example:</p> <ul style="list-style-type: none"> <li>• bank statements showing savings</li> <li>• evidence of pension payments</li> <li>• receipt of educational grants from overseas</li> <li>• income of a partner, spouse or other family member to which they have regular access, for example:             <ul style="list-style-type: none"> <li>○ parental funding, or</li> <li>○ a spouse's salary</li> </ul> </li> <li>• a student who is also working may not be considered a worker in line with the regulations but may provide evidence of income from regular employment in the UK.</li> </ul> <p>For information on how an applicant would be considered a worker, see related link: Worker.</p> <p>This is not a complete list of all the types of evidence. Applicants can provide other evidence showing they and their family members have enough resources available to them. You</p>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Students</a></p> <p><a href="#">British nationals with family members from outside the European Economic Area (EEA)</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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must assess each case on an individual basis.

**Taking into account the personal situation of the applicant and any family members**

If an EEA national and their family member's resources do not exceed the maximum levels of resources, you must take into account their personal situation. This is to see if their resources are sufficient on the facts of the case:

- financial commitments, for example:
  - rent
  - mortgage
  - utilities
  - loans
  - credit cards
  - other personal debt
- additional costs, for example:
  - travel
  - food costs
- other evidence not covered by the above.

The applicant can show they have enough resources if there is a change in their circumstances about to happen, for example:

- Receiving inheritance, for example a solicitor's letter confirming when this is to be received.
- Potential employment, for example a letter confirming an offer of a job.
- Retirement or receiving pension payments, for example a letter from the pension company confirming when it is to be paid.

This is not a complete list of all the types of evidence an applicant can provide. You must assess each case on an individual basis and make sure if the applicant has dependent family members the resources are enough for the whole family.

Where you have assessed the personal situation of the EEA national and the evidence, and you are satisfied their resources and that of their family members exceed or will shortly

exceed what is needed to meet their financial commitments and living costs, those resources must be regarded as sufficient.

In all cases where the applicant would qualify for social assistance you must speak to your senior caseworker and check they agree with your decision. This makes sure decisions made by caseworkers are consistent.

**Declarations made by students**

The regulations allow students to assure the Secretary of State they have enough resources not to become a burden on the social assistance system by making a declaration.

When dealing with applications from students you can receive either:

- evidence in the form of documentation, or
- a declaration.

You must not insist documentary evidence of available income or resources is provided.

If the applicant chooses to make a declaration you must advise them to confirm they meet the above requirements relating to enough resources.

If the declaration is not clear or detailed enough to confirm they meet these requirements you must either:

- request further information, or
- refuse the application.

If the declaration is not clear enough you must speak to your senior caseworker for approval before refusing the application.

For more information, see related links:

- Immigration (EEA) Regulations 2006
- The Immigration (EEA) (Amendment) Regulations 2009

This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

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|--|---|--|
|  | <ul style="list-style-type: none"><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul> |  |
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### British nationals with family members from outside the European Economic Area (EEA)

<p>About this guidance</p> <p>Rights of admission to UK</p> <p>Countries that qualify</p> <p>The Swiss agreement and posted workers</p> <p>Conditions of free movement rights</p> <p>Principles established by caselaw</p>	<p>This page tells you about British nationals with family members who are not European Economic Area (EEA) nationals and have previously exercised free movement rights as a worker or self employed person in another member state.</p> <p>Different rules apply to British nationals and their non-EEA direct family members who have previously exercised free movement rights as a worker or self employed person in another member state before they returned to the UK.</p> <p>They can choose to enter the UK under the Immigration (EEA) Regulations 2006, and apply for an EEA family permit. Once in the UK, they can then apply for a residence card under regulation 17 of the Immigration (EEA) Regulations 2006.</p> <p>Family members must have been living with the British national as part of their household before they return to the UK. If the family member of the British national is a spouse or civil partner, they must be married or registered as civil partners, and have been living together in the EEA country before returning to the UK.</p> <p>For information on conditions to be satisfied by family members of British nationals from outside the EEA, you must read regulation 9 of the Immigration (EEA) Regulations 2006. See related link: Immigration (EEA) Regulations 2006.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Immigration (EEA) Regulations 2006</li><li>• The Immigration (EEA) (Amendment) Regulations 2009</li><li>• The Immigration (EEA) (Amendment) Regulations 2011.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Job seekers</a></p> <p><a href="#">Worker</a></p> <p><a href="#">Self-employed person</a></p> <p><a href="#">Self-sufficient person</a></p> <p><a href="#">Students</a></p> <p><a href="#">Assessing sufficient resources</a></p> <p><b>External links</b></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Principles established by caselaw

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This page summarises some of the important principles established in European Economic Area (EEA) caselaw.</p> <p><b>What constitutes employment</b> Part time work counts as employment for EEA nationals seeking to exercise free movement rights providing the work is genuine and gives an effective means of a person earning a living, even if this is added to by public funds.</p> <p>This principle was established in the Levin v Staatsecretaris judgement made in the European Court of Justice on 23 March 1982. For more information on this judgement, see related link: Levin versus Staatssecretaris judgement.</p> <p><b>Offenders claiming to be workers</b> EEA national offenders do not qualify as workers exercising free movement rights because they are not taking part in the labour market. Non-EEA national family members of EEA nationals serving a prison sentence cannot obtain a right to residence from their relationship with the offenders.</p> <p>This principle was established in the case of OA made by the United Kingdom Asylum and Immigration Tribunal (UKAIT), reference [2006] UKAIT 00066 OA. For more information on this judgement, see related link: OA [2006] UKAIT 00066 judgement.</p> <p><b>Sickness insurance and the National Health Service (NHS)</b> EEA nationals who must have medical insurance cannot rely on the NHS as providing medical insurance. Medical insurance must cover an existing medical conditions and any treatment that can be required for serious or long term medical conditions. EEA nationals and their family members must show they will not be a burden on the public finances of the UK.</p> <p>This principle was established in the W&amp;X (China) judgement made in the Court of Appeal. For more information on this judgement, see related link: W&amp;X (China) judgement.</p>	<p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration Rules Part 7 - Other categories</a></p> <p><a href="#">Immigration (EEA) Regulations 2006</a></p> <p><a href="#">Free Movement of Persons Directive 2004/34/EC</a></p> <p><a href="#">Levin versus Staatssecretaris judgement</a></p> <p><a href="#">OA [2006] UKAIT 00066 judgement</a></p> <p><a href="#">W&amp;X (China) judgement</a></p> <p><a href="#">Baumbast judgement</a></p> <p><a href="#">Metock judgement</a></p> <p><a href="#">Chen judgement</a></p>
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	<p><b>The right of residence of a child in education when their EEA national parent leaves the UK</b></p> <p>The child of an EEA national who is enrolled in education will continue to have a right of residence to complete their education even if the EEA national parent leaves the member state. A non-EEA parent of an EEA child keeps a right of residence to allow the child to complete their education.</p> <p>This principle was established in the case of Baumbast made by the European Court of Justice in 2002. For more information on this judgement, see related link: Baumbast judgement.</p> <p><b>Non-EEA family members of EEA nationals and lawful residence prior lawful residence in a member state</b></p> <p>The right of residence of a non-EEA national family member of an EEA national exercising free movement rights in a host member state did not depend on the family member's previous immigration status. The right to live in an EEA member state is given by European Community law and is not dependent on domestic law of the host member state.</p> <p>This principle was established in the case of Metock made by the European Court of Justice in July 2008. For more information on this judgement, see related link: Metock judgement.</p> <p><b>The right of residence of an EEA national child exercising free movement rights as a self-sufficient person</b></p> <p>An EEA national child is entitled to live in another member state as a self-sufficient person if they are covered by sickness insurance benefit and have enough money to support them. The money they relied on did not have to be held personally by the child.</p> <p>The non-EEA parent, primary carer or other close relative of a self-sufficient EEA child can be granted leave to enter or remain in the UK. This would not be the same as an automatic right to work or to be self-employed in the UK. This information is in paragraph 257c of the Immigration Rules under the heading 'Requirements for leave to enter or remain as the primary carer or relative of an EEA national self-sufficient child'. For more information, see related link: Immigration Rules Part 7 – Other categories.</p>	<p><a href="#">Surinder Singh judgement</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2009</a></p> <p><a href="#">The Immigration (EEA) (Amendment) Regulations 2011</a></p>
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This principle was established in the case of Chen made by the European Court of Justice in May 2004. For more information on this judgement, see related link: Chen judgement.

**The right of residence of non-EEA family members of British nationals who have previously exercised free movement rights as a worker or self employed person in another member state**

Non-EEA family members of British nationals exercising free movement rights in another EEA member state can return to live in the UK with their British national family member under European Community law if:

- the British national had lived in the member state exercising rights of free movement as a worker or self-employed person, and
- if the non-EEA family member was a spouse or civil partner, they were married and living with the British national in the EEA member state before they returned to the UK.

This principle was established in the Surinder Singh judgement made by the European Court of Justice in 1992. For more information on this judgement, see related link: Surinder Singh judgement.

For more information, see regulation 9 of the Immigration (EEA) Regulation 2006, see related links:

- Immigration (EEA) Regulations 2006
- The Immigration (EEA) (Amendment) Regulations 2009
- The Immigration (EEA) (Amendment) Regulations 2011.

For information on other caselaw from:

- First-tier Tribunal and Upper Tribunal (Immigration and Asylum Chamber)
- Asylum and Immigration Tribunal
- High Court
- Court of Appeal
- Supreme Court

This guidance is based on the Immigration (EEA) Regulations 2006 and the Free Movement of Persons Directive 2004/38/EC

	<ul style="list-style-type: none"><li>• House of Lords (replaced by the Supreme Court in October 2009)</li><li>• European Court of Justice</li><li>• European Court of Human Rights categorised into year of issue</li></ul> <p>See related link: Caselaw.</p>	
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Contacts

<p><a href="#">About this guidance</a></p> <p><a href="#">Rights of admission to UK</a></p> <p><a href="#">Countries that qualify</a></p> <p><a href="#">The Swiss agreement and posted workers</a></p> <p><a href="#">Conditions of free movement rights</a></p> <p><a href="#">Principles established by caselaw</a></p>	<p>This page explains who to contact for more help with a specific case in the European Economic Area (EEA) free movement rights category.</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 senior caseworker or your line manager.</p> <p>If the question cannot be answered at that level, you may email: European operational policy team for guidance on the policy. See related link.</p> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the European operational policy team, who will ask the MGT to update the guidance, if appropriate.</p> <p>The MGT will accept feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
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## European Economic Area (EEA) and Swiss nationals – Free movement rights

### Information owner

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