



Home Office

Free movement rights: retained rights of residence

Version 3.0

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2016. These regulations make sure the UK complies with its duties under the Free Movement of Persons Directive 2004/38/EC.

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About this guidance

This guidance tells you how to consider an application for a document confirming a right of residence where a family member of a European Economic Area (EEA) national has retained a right of residence in the UK.

Swiss nationals

Under the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations), Swiss nationals are included in the definition of EEA nationals. Their family members are considered as if they were family members of EEA nationals.

This guidance applies and interprets the 2016 regulations, which transpose the Free Movement Directive 2004/38/EC into national law.

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 **3.0**
- published for Home Office staff on **7 February 2017**

Changes from last version of this guidance

- Changes to reflect commencement of Immigration (European Economic Area) Regulations 2016
- Placed into new template

Related content

[Contents](#)

Related external links

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

Retained rights of residence

This page tells you how family members of European Economic Area (EEA) nationals can retain the right of residence in the UK.

Under the Immigration (European Economic Area) Regulations 2016 (the 2016 regulations), certain family members of EEA nationals who are exercising free movement rights in the UK are allowed to join or accompany the EEA national in the UK.

For more information on the rights of such family members, see related links:

- Free Movement Rights: Direct family members of EEA nationals
- Extended family members of EEA nationals

Regulation 10

The regulations also provide for certain family members of EEA nationals to keep their right of residence in the UK under regulation 10 when:

- the EEA national, either:
 - [dies – regulation 10\(2\)](#)
 - [leaves the UK – regulation 10\(3\)](#)
 - [divorces their spouse or dissolves their civil partnership – regulation 10\(5\)](#)
- [the family member is the parent of a child who retains the right of residence – regulation 10\(4\)](#)

The family member will retain the right to reside in these circumstances if they can satisfy the relevant conditions of regulation 10. If the family member cannot satisfy the conditions, you must refuse their application and revoke any registration certificate or residence card that has already been issued.

For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10, see: [Documents required for retained right of residence](#).

Residence cards

When a non-EEA national has previously been issued a residence card, this only demonstrates that they had a right to reside under the regulations on the date it was issued. If they later apply for confirmation of a retained right of residence, you must request evidence, where necessary, so you are satisfied that the applicant meets the relevant requirements relating to retained rights.

Change of circumstances before 30 April 2006

The provision to retain a right of residence did not exist before 30 April 2006, which is the date the Immigration (European Economic Area) Regulations 2006 (the 2006 regulations) came in to force. A family member who would otherwise meet the requirements cannot benefit from regulation 10 of the 2016 regulations if the change of circumstances happened before 30 April 2006. For example, if a person married

an EEA national and subsequently divorced them before 30 April 2006 they would not be entitled to retain the right to reside.

Retained rights and sponsoring other non-EEA nationals

The Free Movement of Persons Directive 2004/38/EC (the directive) states at paragraph 15 of the introduction that family members who have a retained right of residence do so 'exclusively on a personal basis'. This means that they cannot be the sponsor for another family member. For example, if a non-EEA national with a retained right of residence gets married to another non-EEA national, the new spouse will not have any rights under the regulations. The new spouse would only be able to enter or remain in the UK if they qualified under the Immigration Rules.

Related content

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Related external links

[Immigration \(European Economic Area\) Regulations 2006](#)

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

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

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

This page tells you how family members of European Economic Area (EEA) nationals can retain the right of residence in the UK following the death of their EEA national sponsor.

If the EEA national sponsor has died, their non- EEA national family members can retain a right of residence in certain circumstances. This is in line with regulation 10(2) of the 2016 regulations.

For more information on the relatives that are considered family members of an EEA national under the regulations and the documents that must be submitted to show they are related, see: [Free Movement Rights: Direct family members of EEA nationals](#).

Requirements of regulation 10(2)

To qualify under regulation 10(2) of the 2016 regulations the family member must show that they:

- were the family member of an EEA national who was a qualified person or had a right of permanent residence when they died
- were living in the UK in line with the regulations for at least one year immediately before the EEA national's death
- would be a worker, self-employed person, or self-sufficient person if they were an EEA national, or they are the family member of a person who meets this requirement

For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(2), see: [Documents required for retained right of residence](#).

For information on meeting the requirements in regulation 10(6), see: [European Economic Area nationals: qualified persons](#).

Related content

[Contents](#)

Related external links

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

Direct descendants: regulation 10(3)

This page tells you how the children of European Economic Area (EEA) nationals can retain the right of residence in the UK.

The direct descendants (either EEA or non-EEA) of an EEA national can retain a right of residence in certain circumstances. This is in line with regulation 10(3) of the 2016 regulations.

Direct descendants

Direct descendants include:

- children
- grandchildren
- great-grandchildren

Requirements of regulation 10(3)

A direct descendant will meet the conditions of regulation 10(3) where:

- they are the direct descendant of either:
 - a qualified person, or an EEA national with a permanent right of residence who has died
 - a person who ceased to be a qualified person when they ceased to reside in the UK
 - the spouse or civil partner of a qualified person, or an EEA national with a permanent right of residence who has died
 - the spouse or civil partner of the person who ceased to be a qualified person when they ceased to reside in the UK
- they were attending an educational course in the UK immediately before the qualified person, or the EEA national with a permanent right of residence, died or ceased to be qualified - they must continue to attend that course

See the guidance on qualified persons for more information.

For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(3), see: [Documents required for retained right of residence](#).

End of retained rights of residence

A direct descendant's right of residence will end as soon as they gain the right of permanent residence or they finish education.

For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see related links:

- [Decision making: registration certificate or residence card to confirm a retained right of residence](#)

- [Decision making: permanent residence where the applicant has a retained right of residence](#)
- [Decision making: revoking an existing registration certificate or residence card](#)

Related content

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Related external links

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

Parent of a child: regulation 10(4)

This page tells you how the parent of a child of a European Economic Area (EEA) national can retain the right of residence in the UK.

The parent of a child of an EEA national can retain a right of residence in certain circumstances. This is in line with regulation 10(4) of the 2016 regulations.

Requirements of regulation 10(4)

If the applicant is the parent that has custody of a child who satisfies the conditions of regulation 10(3), they will retain the right of residence under regulation 10(4) in the following circumstances:

- for as long as their child also retains this right of residence under regulation 10(3)
- where the child reaches the age of 21 (unless the child needs their parent to stay in order to allow them to complete their education)
- until the parent no longer has custody of the child
- until the parent gains the right of permanent residence

For information on the documents that an applicant must submit to prove they meet the requirements of regulation 10(4), see: [Documents required for retained right of residence](#).

For more information on making a decision on an application for retained right of residence and the action to take when the retained right of residence ends, see related links:

- [Decision making: registration certificate or residence card to confirm a retained right of residence](#)
- [Decision making: permanent residence where the applicant has a retained right of residence](#)
- [Decision making: revoking an existing registration certificate or residence card](#)

For information on how a child can retain the right of residence, see: [Direct descendants who retain rights of residence: regulation 10\(3\)](#).

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Related external links

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

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

This page tells you how family members of European Economic Area (EEA) nationals can retain the right of residence in the UK where a marriage or civil partnership has terminated.

The non-EEA national spouse or civil partner of an EEA national can, in certain circumstances, retain a right of residence when their relationship ends. The family members of the former spouse or civil partner may also retain a right of residence. This is in line with regulations 10(5) of the 2016 regulations.

For more information on the documents required to prove the conditions are met, see: [Documents required to prove conditions of regulation 10 are met.](#)

Marriage or civil partnership: non-official separation

If a non-EEA national separates from their EEA national spouse or civil partner they remain a family member with the right to live in the UK for as long as they are married to, or in a civil partnership with, an EEA national sponsor. The EEA national must continue to exercise free movement rights in the UK, or have a right of permanent residence.

A non-EEA national spouse or civil partner whose relationship has not officially ended will lose their right of residence if the EEA national:

- stops being a qualified person (either through no longer being a qualified person in the UK or by leaving the UK)
- loses their right of permanent residence

See: Free Movement Rights: Direct family members of EEA nationals for information on how to deal with such cases.

Marriage or civil partnership: officially terminated

Once the marriage or civil partnership has been officially terminated, the non-EEA spouse or civil partner, and anyone who was related to the EEA national sponsor by marriage, must meet the requirements of regulation 10(5) in order to retain a right of residence in the UK.

The relationship is considered to have been terminated on the date that the following documents are issued:

- decree absolute (for marriages)
- decree of nullity (for marriages or civil partnerships)
- certificate of dissolution (for civil partners)

The relationship must have terminated on or after 30 April 2006 when the 2006 regulations came in to force. If it terminated before this date then the applicant cannot have retained a right of residence.

For more information on making a decision on an application for retained rights of residence and the action to take when the retained right of residence ends, see related links:

- [Decision making: registration certificate or residence card to confirm a retained right of residence](#)
- [Decision making: permanent residence where the applicant has a retained right of residence](#)
- [Decision making: revoking an existing registration certificate or residence card](#)

Requirements of regulation 10(5)

A person who ceases to be the family member of an EEA national sponsor because of a divorce, or annulment or a dissolution of civil partnership will retain a right of residence where all the following conditions are met:

- the EEA national was a qualified person, or had permanent residence, on the date of the termination of the marriage or civil partnership.
- the applicant was residing in the UK in accordance with the regulations at the date of termination and either:
 - the applicant is not an EEA national but if they were, they would be a worker, self-employed person, or self-sufficient person in line with regulation 6
 - the applicant is the family member of the person described in the bullet above
- the applicant meets the requirements of either regulation 10(5)(d)(i), (ii), (iii), or (iv) of the 2016 regulations.

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[Immigration \(European Economic Area\) Regulations 2006](#)

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

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

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

This page tells you more about paragraph 10(5)(d) of the 2016 regulations. It also refers to regulation 10(6), and students and jobseekers.

Regulation 10(5)(d)(i)

To meet the conditions of regulation 10(5)(d)(i) the applicant must have:

- been married to, or in a civil partnership with, the European Economic Area (EEA) national for at least 3 years immediately before beginning proceedings for divorce, annulment or dissolution
- lived in the UK with the EEA national sponsor for at least one year during the time of their marriage or civil partnership

Regulation 10(5)(d)(ii)

To meet the conditions of regulation 10(5)(d)(ii) the applicant must have custody of the EEA national sponsor's child.

Regulation 10(5)(d)(iii)

To meet the conditions of regulation 10(5)(d)(iii), the applicant must have the right of access to the EEA national sponsor's child, where the child is aged under 18, and where a court has ordered that such access must take place in the UK.

The retained right of residence obtained in these circumstances will end when the:

- custody of the child ends
- applicant no longer has the right of access to the child
- order granting access is amended to allow the access to take place outside the UK
- applicant gains the right of permanent residence in the UK
- child named in the order reaches the age of 18 (if more than one child is involved then it will end when the youngest child reaches the age of 18).

Regulation 10(5)(d)(iv)

To meet the conditions of regulation 10(5)(d)(iv) the applicant's continued right of residence in the UK must be warranted by particularly difficult circumstances. For example, when the applicant or another family member has been a victim of domestic violence whilst the marriage or civil partnership was subsisting.

If the applicant claims a retained right of residence due to difficult circumstances other than domestic violence, you must discuss the case with your senior caseworker who will then decide if the circumstances justify the retained right of residence.

See: [Documents required for retained residence in domestic violence cases](#) for more information.

For information on the documents that an applicant must provide to prove they meet the requirements of regulation 10(5), see: [Documents required for retained rights of residence](#).

Requirements of regulation 10(6)

In line with regulation 10(6) of the 2016 regulations, to be eligible to retain the right of residence, the non-EEA national must be undertaking activities similar to those of a qualified person. This means they must be either a:

- worker
- self-employed person
- self-sufficient person

They must also remain a worker, self-employed person or a self-sufficient person to continue to retain their rights under the regulations and in order to acquire permanent residence.

Students and jobseekers

A non-EEA national who is a student or a jobseeker does not meet these conditions, unless they have enough resources to be self-sufficient.

If the non-EEA national meets the conditions of regulation 10 but later becomes a student or jobseeker they will no longer have the retained right of residence unless they have enough resources to be self-sufficient.

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

Documents required for retained rights of residence

This page tells you which documents must be provided by family members of European Economic Area (EEA) nationals who are applying for a document for a retained right of residence.

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

The applicant must provide:

- a valid EEA national identity (ID) card or passport issued by an EEA state if they are an EEA national, or their valid passport if they are a non-EEA national
- a valid EEA national ID card or passport issued by an EEA state, of their EEA national sponsor
- evidence of their relationship to the EEA national (such as a marriage certificate)
- the EEA national's death certificate
- evidence the EEA national was exercising free movement rights at the time of their death or had permanent residence
- proof of residence in the UK as the family member of the EEA national for at least one year immediately before the EEA national's death
- proof that they are a worker, self-employed person or self-sufficient person or the family member of such a person (see: [Requirements under regulation 10\(6\)](#))

For information on the types of documents that must be provided, see related links:

- Free Movement Rights: Direct family members of EEA nationals
- European Economic Area nationals qualified persons

Direct descendants: regulation 10(3) and 10(4)

The applicant must provide evidence:

- of nationality and identity through a:
 - valid EEA national ID card or passport issued by an EEA state if they are an EEA national
 - valid passport if they are a non-EEA national
- of their relationship to the EEA national (such as a birth certificate)
- they are attending an educational course in the UK (such as letters of enrolment)

In addition, further evidence must be provided depending on the basis in which the retained right is being claimed. Further details can be found in the sections: [EEA national has died](#) and [EEA national has left the UK](#).

EEA national has died

If the EEA national has died the applicant must provide:

- a valid EEA national ID card or passport issued by an EEA state for the EEA national
- the EEA national's death certificate
- evidence the EEA national was exercising free movement rights at the time of their death or had permanent residence

EEA national has left the UK

If the EEA national has left the UK the applicant must provide:

- proof the EEA national was a qualified person before leaving the UK

For parents with custody of a direct descendant of an EEA national, they need to provide proof (such as a custody order) in addition to the evidence listed above, in order to retain a right of residence.

For the types of documents that must be provided as evidence showing:

- an EEA national is a qualified person see related link: EEA nationals qualified persons
- the relationship to the EEA national, see related link: Free Movement Rights: Direct family members of EEA nationals

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

The applicant must provide evidence:

- of their identity and nationality through a:
 - valid EEA national ID card or passport issued by an EEA state if they are an EEA national
 - valid passport if they are a non-EEA national
- of the identity and nationality of the EEA national sponsor, which must be a valid EEA national identity card or passport issued by an EEA state
- the EEA national was exercising free movement rights at the time the relationship was terminated or had permanent residence
- the marriage or civil partnership lasted for at least 3 years immediately before the start of proceedings for divorce, annulment or dissolution
 - the types of documents that must be provided can be found here: Free Movement Rights: Direct family members of EEA nationals
- they resided in the UK for at least one year during the marriage
 - the types of documents that must be provided can be found here: Free Movement Rights: Direct family members of EEA nationals
- their relationship with the EEA national has been terminated, such as a:
 - decree absolute
 - decree of annulment
 - certificate of dissolution
- they are a worker, self-employed person or self-sufficient person or the family member of such a person

For the types of documents that must be provided, see related links:

- Qualified persons
- Free Movement Rights: Direct family members of EEA nationals

Applicants who raise domestic violence or other difficult circumstances as a reason for the end of their relationship do not need to show evidence that the marriage or civil partnership lasted for 3 years or that the parties had resided together in the UK for at least one year during its duration. They must provide details of the difficult circumstances which occurred whilst the marriage or civil partnership was subsisting. For detailed information, see related link: [Documents required for retained residence in domestic violence cases](#).

Original documents and translations

Passports and ID documents must be originals.

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

All documents not in English must be translated. For further information on original documentation, when alternatives are permitted and translations, see: Processes and procedures: identification document requirements.

Deciding an application

For information on how to make a decision on an application, see:

- [Decision making: registration certificate or residence card to confirm a retained right of residence](#)
- [Decision making: permanent residence where the applicant has a retained right of residence](#)
- [Decision making: revoking an existing registration certificate or residence card](#)

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

Documents for retained rights of residence in domestic violence cases

This page tells you which documents must be provided by former spouses or civil partners and family members of European Economic Area (EEA) nationals whose relationship has ended as a result of domestic violence or other difficult circumstances.

The 2016 regulations only provide for a retained right of residence to former spouses and civil partners. There is no basis for a durable partner to retain a right of residence for reasons of domestic violence.

When the relationship between a family member and their EEA national sponsor has ended due to domestic violence or other difficult circumstances, they may apply to retain their right of residence under regulation 10(5)(d)(iv) of the 2016 regulations.

The applicant must provide evidence:

- of their identity and nationality through a:
 - valid EEA national identity (ID) card or passport issued by an EEA state if they are an EEA national
 - valid passport if they are a non-EEA national
- of the identity and nationality of the EEA national sponsor, which must be a valid EEA national ID card or passport issued by an EEA state
- the EEA national was exercising free movement rights at the time the relationship was terminated or had permanent residence
- their relationship with the EEA national has been terminated, such as a:
 - decree absolute
 - decree of annulment
 - certificate of dissolution
- they are a worker, self-employed person or self-sufficient person or the family member of such a person

For the types of documents that must be provided, see: Evidence of being a victim of domestic violence or other difficult circumstances.

Original documents and translations

Passports and ID documents must be originals.

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

All documents not in English must be translated. For further information on original documentation, when alternatives are permitted and translations, see: Processes and procedures: identification document requirements.

Delaying your decision for court hearings

Where the non-EEA national claims they are waiting for a court hearing for a court order as evidence of domestic violence, you can delay making a decision on the application (subject to the relevant deadline) pending the outcome of that hearing, provided you have:

- evidence from the court confirming the case has been listed to be heard
- confirmation of the date of the hearing

A 'without notice application' is normally heard on the day of application and the date for the full hearing, if there is to be one, is normally within 7 days. The court will try to resolve the case on the date set. Where the case is complicated and likely to last a full day it may be re-listed but will be given priority to be heard as soon as possible. It is unlikely that there will be any significant delay.

Other acceptable proof of domestic violence

It is often difficult for victims of domestic violence to produce the documentary evidence of violence and there is often an unwillingness or insufficient evidence to take the matter to court. Although you must still try to obtain police or court evidence as confirmation of domestic violence from the applicant, where this is not possible, alternative evidence may be accepted from other sources.

Where a relationship has broken down, it may not always be possible for the applicant to provide all of the documents relating to their EEA national sponsor. See: [Applicant is unable to provide all the evidence](#) for information.

For information on how to make a decision on an application, see:

- [Decision making: registration certificate or residence card to confirm a retained right of residence](#)
- [Decision making: permanent residence where the applicant has a retained right of residence](#)
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Applicants who are unable to provide all the evidence of their EEA sponsor

This page tells you what to do when an applicant is unable to provide evidence of their European Economic Area (EEA) sponsor to support their application for a document confirming they retain the right of residence in the UK due to difficult circumstances.

Where a relationship has broken down due to domestic violence or other difficult circumstances it may not always be possible for the applicant to provide all of the necessary documents about the EEA national sponsor. In such circumstances, you can make further enquiries about the EEA national sponsor's status but only where the applicant has shown they have made every effort to provide the necessary evidence.

Regulations 17,18 and 19 of the 2016 regulations put the responsibility on the applicant to provide the necessary proof that they are eligible for a document to confirm their right of residence in the UK.

In cases where an applicant has previously been issued a document this only demonstrates that they had a right to reside under the regulations on the date it was issued. If they apply for a retained right of residence, you must be satisfied that the applicant meets the relevant requirements relating to retained rights and request evidence where necessary.

No evidence of EEA sponsor

In cases where there has been a breakdown in the relationship between the applicant and their EEA national sponsor it may not always be possible for them to get the documents that are needed to support their application.

An example of this could be where the applicant was the victim of domestic violence and cannot provide evidence relating to their EEA national sponsor's nationality or free movement rights (to ask them to do so could put them at risk). See: [Documents required for retained residence in domestic violence cases](#).

Another example would be where the applicant's relationship has ended under difficult circumstances but they have provided evidence to show that they have made every effort to provide the required documents. Such as, attempting to make contact with the EEA national sponsor during divorce proceedings.

When dealing with these cases you must take a pragmatic approach and:

- consider each case on its merits
- if you are satisfied the applicant cannot get the evidence themselves, make enquiries on their behalf where possible, getting agreement from your senior caseworker before doing so.

Applications for registration certificates or residence cards

Where it is agreed that you can make additional enquiries the applicant must give you as much detail as they can about the EEA national sponsor. If they cannot provide proof of the EEA national sponsor's identity, nationality or proof of relationship, then you must check existing records on CID to see if their identity has been established in any previous applications.

If they can give the name of the EEA national sponsor's employer or place of study or existing records on CID hold such details, you may contact the employer or educational establishment to enquire if the EEA national sponsor is working or studying there. You must decide whether to do so according to the facts of the individual case and with the agreement of your senior caseworker. You must not make reference to domestic violence to the employer or educational establishment where this is the reason for the enquiry.

If you decide not to get information directly from the EEA national's employer or educational establishment, for example because of the exceptional circumstances of the case or because the EEA national is self-employed, then you must make enquiries with Her Majesty's Revenue & Customs (HMRC) to try to gather the necessary information.

Official - sensitive: Start of section

The information on this page has been removed as it is restricted for internal Home Office use.

Official - sensitive: End of section

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

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

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

Applications for documents certifying permanent residence or permanent residence cards

Applicants may also have difficulty providing evidence to cover a continuous 5 year period when they are applying for a document confirming a permanent right of residence. You must follow the same guidance as that for [registration certificates and residence cards](#).

If there are periods of time that the applicant cannot provide documents for or where checks with HMRC do not cover the full 5 year period, you must discuss the case with your senior caseworker. They will decide whether discretion should be applied based on the circumstances of the case. The senior caseworker must look at the amount of information provided by the applicant along with the level of evidence that has been gathered.

Public policy, security and health

The right of residence for family members is subject to regulation 23(6)(b) of the regulations. This states an applicant and their family members may be removed from the UK on the grounds of:

- public policy
- public security
- public health

Before issuing a registration certificate or a residence card, you must be certain that there are no reasons to refuse on the grounds of public policy or public security or public health.

Related content

[Contents](#)

Related external links

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

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

This page tells you how to consider applications from family members of European Economic Area (EEA) nationals applying for documents confirming they have retained the right of residence in the UK.

Domestic violence cases

You must refer all applications made on the basis of [domestic violence](#) to your senior caseworker before issuing a registration certificate, residence card or refusal. Your senior caseworker will check the decision you have made is correct.

Valid proof provided to show they meet the conditions of regulation 10

When a non-EEA national has previously been issued a residence card, it only demonstrates that they had a right to reside under the 2016 regulations on the date it was issued. If they subsequently apply for a document to confirm a retained right to reside, you must request evidence, where necessary, to satisfy yourself that the applicant meets all of the relevant conditions relating to retained rights.

If the applicant has provided sufficient evidence to show that they meet the conditions of regulation 10, then you must issue either:

- a registration certificate to EEA nationals
- a residence card to non-EEA nationals

A residence card will normally be valid for 5 years. However, if you know the applicant's retained right of residence will end in less than 5 years then you must issue the residence card for a shorter period. You must do this when:

- a child applying under regulation 10(3) will finish their education.
- the child of a parent applying under regulation 10(4) will finish their education or reach the age of 21
- the child of a parent applying under regulation 10(5)(d)(iii) will reach the age of 21

A parent of a child with a retained right of residence under regulation 10(4) can retain a right where the child is aged 21 or over where the child requires their presence in order to complete their education. However, the parent would need to make a further application at that stage, and provide the relevant evidence to demonstrate this.

No valid proof provided to show they meet the conditions of regulation 10

Before you [refuse an application on this basis](#), you must decide whether it is appropriate to make further enquiries. In some circumstances, you can request the EEA national's passport or alternative evidence of identity. See: [Original documents and translations](#).

Refusals

You must refuse the application if the applicant:

- has not provided any valid proof of their own or the EEA national sponsor's identity
- provides evidence of their own or the EEA national sponsor's identity that is either:
 - forged
 - counterfeit
- has not provided any proof that they are related to the EEA national sponsor
- ceased to be the family member of an EEA national who was exercising free movement rights in the UK
- does not provide enough evidence to show that they meet the conditions of regulation 10

For more guidance on refusals, see: Removals and revocations of European Economic Area (EEA) nationals.

Appeal rights

Regulation 36(4) provides a right of appeal to persons claiming to be a family member who has retained the right of residence provided certain documentation has been produced.

Related content

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Related external links

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

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

This page tells you how to consider applications from family members of European Economic Area (EEA) nationals applying for documents to confirm they have a permanent right of residence in the UK. Including where part of their residence in the UK has been on the basis of a retained right of residence.

Requirements of regulation 15 of the 2016 regulations

Regulation 15(1)(f) of the regulations states that someone will have a permanent right of residence in the UK if they:

- have lived in the UK in line with the 2016 regulations for a continuous period of 5 years
- have a retained right of residence at the end of the 5 year period

You must make sure that they:

- met the conditions of being the family member of an EEA national who is exercising free movement rights in the UK prior to retaining a right of residence
- met the conditions of regulation 10 at the time of their change in circumstances
- continued to meet the conditions of regulation 10(6) until the end of the 5 year period of residence

Where the applicant has already been issued a document confirming they have a retained right of residence, they would only need to show that they continue to meet the conditions in regulation 10(6). This means showing they are a worker, self-employed person or self-sufficient person and that they have resided in the UK for a continuous period of 5 years.

It is not necessary for the applicant to show that, following divorce, the EEA national has continued to be a qualified person.

For information on the conditions that must be met to be considered a family member of an EEA national who is exercising free movement rights, see related links:

- Free Movement Rights: Direct family members of EEA nationals
- Extended family members of EEA nationals

Valid proof provided to show they meet the conditions of regulation 15(1)(f)

If the applicant has provided sufficient evidence, then you must issue either a:

- document certifying permanent residence to EEA nationals

- permanent residence card to non-EEA nationals

No valid proof provided to show they meet the conditions of regulation 15(1)(f)

Before you [refuse an application on this basis](#), you must decide whether it is appropriate to make further enquiries. In some circumstances, you can request the EEA national's passport or alternative evidence of identity. See: [Original documents and translations](#)

Refusals

You must refuse the application if the applicant:

- provides evidence of their own or the EEA national sponsor's identity that is either:
 - forged
 - counterfeit
- has not provided any proof that they are related to the EEA national sponsor
- does not provide enough evidence to show that they meet the conditions of regulation 15(1)(f)

For further information on refusals and rejections, see: Processes and procedures for EEA documentation applications.

Appeal rights

Regulation 36 provides a right of appeal to persons claiming to be a family member who has retained the right of residence where certain documentary requirements have been met.

Related content

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Related external links

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

Decision making: revoking an existing registration certificate or residence card

This page tells you what to do if family members of European Economic Area (EEA) nationals who have previously been issued with a document confirming their right of residence do not retain that right of residence in the UK.

Regulation 24(3)

Regulation 24(3) of the 2016 regulations states that a registration certificate or residence card can be revoked if the holder of the certificate or card has ceased to have, or never had, a right to reside under the regulations.

If an applicant is making an application under regulation 10 but they have previously been issued a registration certificate or residence card as the family member of an EEA national exercising free movement rights, you must revoke the existing document if they do not satisfy the:

- conditions of regulation 10
- the 2016 regulations in any other capacity

Change of circumstances: no longer satisfies the conditions in regulation 10

If the applicant has been issued a registration certificate or residence card because they satisfy the conditions of regulation 10, you must revoke the document if you become aware that they have had a change in circumstances which means they no longer meet those conditions.

You would revoke the document providing the applicant is not a qualified person in their own right and they do not qualify under any other part of the 2016 regulations.

For example, an applicant who was issued a residence card as evidence of a retained right of residence may no longer meet the conditions of regulation 10 because they stop working. However, if their reason for no longer working is because they married an EEA national who is exercising free movement rights in the UK, their marriage would give them another reason to be issued with a residence card and so it must not be revoked.

See the guidance on qualified persons for more information.

Appeal rights

Regulation 36(4) of the regulations provides for a right of appeal against the revocation of a document on the basis of a retained right of residence provided the documentary requirements are met.

Related content

[Contents](#)

Related external links

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