

# EU Settlement Scheme: EU citizens and their family members

Version v1.0

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## About this guidance

This guidance tells you how to consider applications under the EU Settlement Scheme during the second private beta phase (private beta 2) from 1 November 2018.

The EU Settlement Scheme provides a basis, consistent with the draft Withdrawal Agreement with the EU published on 19 March 2018, for EU citizens resident in the UK and their family members to apply for the UK immigration status which they will require to remain here beyond the end of the planned implementation period on 31 December 2020.

Immigration status granted under the EU Settlement Scheme is either indefinite leave to remain (ILR) – also referred to for the purposes of the scheme as ‘settled status’ – or 5 years’ limited leave to remain (LTR) – also referred to as ‘pre-settled status’.

Paragraph 1.15 of the Statement of Intent on the EU Settlement Scheme published on 21 June 2018 states:

The Home Office will work with applicants to help them avoid any errors or omissions that may impact on the application decision. Caseworkers will have scope to engage with applicants and give them a reasonable opportunity to submit supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling caseworkers to exercise discretion in favour of the applicant where appropriate, to minimise administrative burdens. User-friendly guidance will be available online to guide applicants through each stage of the application process.

This guidance for caseworkers has been developed to support that approach.

The EU Settlement Scheme will also be referred to as ‘the scheme’ for the purposes of this guidance.

## Application process

During private beta 2 applicants must apply by using the relevant online application form and the relevant process set out in that form for providing the required proof of identity and nationality.

In line with the draft Withdrawal Agreement, other than for proof of identity and nationality, applicants may submit a photocopy, photograph or scanned digital image of any required evidence. You can require that they submit the original document(s) where you have reasonable doubt as to the authenticity of the copy submitted.

## Cost of application

The application fee for the scheme is £65, or £32.50 for those aged under 16 at the date of application.

There is no application fee where the applicant has previously been issued a permanent residence document (a document certifying permanent residence, or a permanent residence card issued by the UK under the Immigration (European Economic Area) Regulations 2006 or 2016), and this status either:

- has not lapsed, through absence from the UK for a period of more than 2 consecutive years
- has lapsed, but the relevant absence is not more than 5 consecutive years
- has not been lost (for example because a deportation order or exclusion order has been made in relation to the applicant)

There is no application fee where the applicant has previously been granted indefinite leave to enter (ILE) or ILR under another provision of the Immigration Rules, and this status has not lapsed through absence from the UK for a period of more than 2 consecutive years; and has not been revoked or invalidated.

There is no application fee where the applicant is a child under the age of 18 being ['looked after'](#) by a local authority.

Applicants under the scheme will not be required to pay the Immigration Health Charge.

## The best interests of a child

The duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to have regard to the need to safeguard and promote the welfare of a child under the age of 18 in the UK, together with Article 3 of the UN Convention on the Rights of the Child, means that consideration of the child's best interests must be a primary consideration in immigration decisions affecting them. This guidance and the Immigration Rules it covers form part of the arrangements for ensuring that we give practical effect to these obligations.

Where a child or children in the UK will be affected by the decision, you must have regard to their best interests in making the decision. You must carefully consider all the information and evidence provided concerning the best interests of a child in the UK and the impact the decision may have on the child.

## Contacts

If you have any questions about this guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email the European Migration 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 email the Guidance Rules and Forms Team.

## Clearance

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

- version 1.0
- published for Home Office staff on 1 November 2018

## Changes from last version of this guidance

This is new guidance.

### Related content

[Contents](#)

### Related external links

[Statement of changes to the Immigration Rules: HC 1534, 11 October 2018](#)

## Who can apply

Applications can be made under the private beta 2 phase of the implementation of the EU Settlement Scheme (to which this guidance relates) with effect from 1 November 2018. However, if an application has been made under Appendix EU before 1 November 2018, the application will be decided in accordance with the Immigration Rules and guidance in force on 31 October 2018.

An application can be made under private beta 2 from 1 November 2018, and before 22 December 2018, by an applicant who, at the date of application, is either:

- an EU citizen (but not a British citizen)
- a non-EU citizen who has been issued by the Secretary of State with a residence card or permanent residence card under the Immigration (European Economic Area) Regulations 2016 (the EEA Regulations), on the basis of an application made on or after 6 April 2015

where, at the date of application, the applicant also meets one of the criteria set out below which apply from the following dates:

From 1 November 2018:

- a person employed or engaged by one of the following institutions
  - Liverpool Hope University
  - Liverpool John Moores University
  - The University of Liverpool
- a person employed or engaged by one of the following institutions
  - Aintree University Hospital NHS Foundation Trust
  - Blackpool Teaching Hospitals NHS Foundation Trust
  - Countess of Chester Hospital NHS Foundation Trust
  - East Lancashire Hospitals NHS Trust
  - Lancashire Teaching Hospitals NHS Foundation Trust
  - Liverpool Heart and Chest Hospital NHS Foundation Trust
  - Liverpool Women's NHS Foundation Trust
  - Manchester University NHS Foundation Trust
  - Salford Royal NHS Foundation Trust
  - Southport and Ormskirk Hospital NHS Trust
  - Stockport NHS Foundation Trust

## For use during private beta phase 2

- The Royal Liverpool and Broadgreen University Hospitals NHS Trust
- The Walton Centre NHS Foundation Trust
- Warrington and Halton Hospitals NHS Foundation Trust
- Wirral University Teaching Hospital NHS Foundation Trust

In addition, from 15 November 2018:

- a person employed or engaged by a Higher Education Institution or Overseas Higher Education Institution on the Tier 4 Register of Licensed Sponsors
- a child being looked after (within the meaning of section 22(1) of the Children Act 1989) by, or a person who was such a child and is eligible for support or assistance under the Children Act 1989 (or under regulations made under that Act) from, one of the following local authorities:
  - Kent County Council
  - Lincolnshire County Council
  - London Borough of Haringey
  - London Borough of Waltham Forest
  - Sheffield City Council
- a person receiving support from one of the following organisations
  - Ashiana Sheffield, Knowle House, 4 Norfolk Park Road, Sheffield, S2 3QE
  - Coram Children's Legal Centre, Riverside Office Centre, Century House North, North Station Road, Colchester, CO1 1RE
  - East European Resource Centre, Room 18-19, 238-246 King Street, London, W6 0RF
  - Rights of Women, 52-54 Featherstone Street, London, EC1Y 8RT
  - St Vincent Support Centre, Curtis Building, 4 Barking Avenue, Leeds, LS9 9LF
  - The Cardinal Hume Centre, 3-7 Arneway Street, Horseferry Road, London, SW1P 2BG
  - The Roma Support Group, Alan Shelley House, 318 Barking Road, London, E13 8HL

In addition, from 29 November 2018:

- a person employed or engaged by one of the following institutions or organisations

## For use during private beta phase 2

- An NHS Foundation Trust in England
  - An NHS Trust in England
  - Care Quality Commission
  - Health Education England
  - Health Research Authority
  - Human Fertilisation and Embryology Authority
  - Human Tissue Authority
  - Medicines and Healthcare Products Regulatory Agency
  - National Institute for Health and Care Excellence
  - NHS Blood and Transplant
  - NHS Business Services Authority
  - NHS Counter Fraud Authority
  - NHS Digital (the Health and Social Care Information Centre)
  - NHS England (the NHS Commissioning Board)
  - NHS Improvement (Monitor and the NHS Trust Development Authority)
  - NHS Resolution (the NHS Litigation Authority)
  - Public Health England
- a person employed or engaged by one of the following institutions or organisations
    - A Local Health Board in Wales
    - Health Education & Improvement Wales
    - Public Health Wales;
    - The Welsh Ambulance Service
    - Velindre NHS Trust
- a person employed or engaged by one of the following institutions or organisations
    - A Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978
    - Common Services Agency for the Scottish Health Service (established under section 10 of that Act)
    - Healthcare Improvement Scotland (established by section 10A of that Act)
    - Social Care and Social Work Improvement Scotland (known as the Care Inspectorate) established under section 44 of the Public Services (Reform) (Scotland) Act 2010
    - Scottish Social Services Council established under section 43 of the Regulation of Care (Scotland) Act 2001

## For use during private beta phase 2

- a person employed or engaged by one of the following institutions or organisations
  - A Health and Social Care Trust in Northern Ireland
  - Northern Ireland Blood Transfusion Service
  - Northern Ireland Guardian Ad Litem Agency
  - Northern Ireland Medical and Dental Training Agency
  - Northern Ireland Practice and Education Committee
  - Northern Ireland Social Care Council
  - Patient and Client Council
  - Regional Agency for Public Health and Social Well-being (the Public Health Agency)
  - Regional Business Services Organisation
  - Regional Health and Social Care Board
  - Regulation and Quality Improvement Authority
  
- a person who is employed either:
  - to provide, or to support the provision of, regulated activities as prescribed in Schedule 1 (read with Schedule 2) to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (S.I. 2014/2936), and who is also employed or engaged by an institution or organisation registered with the Care Quality Commission
  - for the purposes of an establishment or agency in Wales regulated under Part 2 of the Care Standards Act 2000
  - for the purposes of a service regulated under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016
  
- a person who is employed or engaged by a party to either:
  - a general medical services contract to provide primary medical services, or an agreement for the provision of primary medical services under section 50 of the NHS (Wales) Act 2006
  - a general dental services contract to provide primary dental services, or an agreement for the provision of primary dental services under section 64 of the NHS (Wales) Act 2006
  
- a person who either:
  - is providing care services as defined in section 47(1) of the Public Services Reform (Scotland) Act 2010 and registered under that Act

## For use during private beta phase 2

- is employed or engaged by an organisation registered with Social Care and Social Work Improvement Scotland
- is or who is employed or engaged in connection with the provision of services under the National Health Service (Scotland) Act 1978 by, a party (other than a Health Board) to:
  - an arrangement to provide services under section 2C of that Act
  - an agreement to provide services under section 17C of that Act
  - a contract to provide services under section 17J of that Act
  - an arrangement to provide services under section 25, 26 or 27 of that Act
- a person who is employed or engaged by a General Practitioner Federation or by any entity with which the Northern Ireland Regional Health and Social Care Board has a contract or an arrangement under the Health and Personal Social Services (Northern Ireland) Order 1972 to provide Family Practitioner Services
- a person who is employed or engaged by a body registered with, or monitored or inspected by, the Regulation and Quality Improvement Authority, and who, if that body were in England and they were employed or engaged by it, would meet the criteria set out above
- a person employed or engaged by, or registered with, one of the following organisations
  - General Chiropractic Council
  - General Dental Council
  - General Medical Council
  - General Optical Council
  - General Osteopathic Council
  - General Pharmaceutical Council
  - Health and Care Professions Council
  - Northern Ireland Social Care Council
  - Nursing and Midwifery Council
  - Pharmaceutical Society of Northern Ireland
  - Scottish Social Services Council (under the Regulation of Care (Scotland) Act 2001)
  - Social Care Wales

## EU citizens

An EU citizen is defined in Annex 1 of Appendix EU as:

- a person who is a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain or Sweden

## Relevant EU citizens

A relevant EU citizen is defined in Annex 1 to Appendix EU as either:

- an EU citizen who is continuously resident in the UK
- an EU citizen who, having been continuously resident in the UK, has been or is being granted ILR under Appendix EU (or who would be granted that leave if they made a valid application for it)
- where the applicant is their family member, a relevant naturalised British citizen who is continuously resident in the UK (a relevant naturalised British citizen is a dual British-EU citizen in line with the Court of Justice of the European Union (CJEU) judgment in Lounes)

## Irish citizens

The rights of Irish citizens residing in the UK are protected after the UK leaves the EU under the UK-Ireland Common Travel Area arrangements.

This means that Irish citizens do not need to apply under the scheme. Nonetheless, Irish citizens can make an application under the scheme, should they wish to do so.

Their family members (who are not Irish citizens or British citizens and who do not have leave to remain in the UK) will need to make an application for status under the EU Settlement Scheme. They are able to do so during private beta 2 where they meet the criteria outlined in the section of this guidance on [who can apply](#).

## Non-EU citizen family members

A non-EU citizen will be able to apply where they have previously been issued with a biometric residence card issued under the EEA Regulations, on the basis of an application made on or after 6 April 2015, as a family member or former family member of an EU citizen.

## For use during private beta phase 2

They can only apply during private beta 2 where they meet the criteria outlined in the section of this guidance on [who can apply](#).

### Eligible family members

As set out in the definition in Annex 1 to Appendix EU of 'family member of a relevant EU citizen', the categories of family member of a relevant EU citizen who can apply are:

- spouse
- civil partner
- durable partner (unmarried partnership akin to marriage or civil partnership)
- child, grandchild or great-grandchild (including of the spouse or civil partner)
- dependent parent, grandparent or great-grandparent (including of the spouse or civil partner)
- dependent relative (including of the spouse or civil partner where the applicant holds a relevant document in the UK as the result of an application made before 1 February 2017)

A person can also apply on the basis of retaining a right of residence: for further information please see [a family member who has retained the right of residence](#).

Family members can only apply during private beta 2 where they meet the criteria outlined in the section of this guidance on [who can apply](#).

### A relevant document

Wherever this guidance makes reference to 'a relevant document' it means a family permit, registration certificate, residence card, document certifying permanent residence or permanent residence card which:

- was issued by the UK under the EEA Regulations (and was not subsequently revoked, or fell to be so, because the relationship or dependency had never existed or had ceased)
- has not expired or which remained valid for the period of residence relied upon

Under transitional provisions in the EEA Regulations, a document issued under the 2000 or 2006 Regulations is to be treated as though issued under the EEA Regulations 2016.

**Related content**

[Contents](#)

**Related external links**

[Statement of changes to the Immigration Rules: HC 1534, 11 October 2018](#)  
[Immigration \(European Economic Area\) Regulations 2016](#)

## Making an application: validity

This section tells you how to check an application is valid under rule EU9 of Appendix EU. You must check:

- it has been made in the UK using the required application process
- any required fee has been paid in full in accordance with the required application process
- the required proof of identity and nationality has been provided
- the required biometrics have been provided

### Required application process

During private beta 2, applicants must apply by using the relevant online application form and the relevant process set out in that form for providing the required proof of identity and nationality.

### Required fee

For information on fees see [cost of application](#).

### Required proof of identity and nationality

During private beta 2, for an EU citizen, this will be their valid passport.

During private beta 2, for a non-EU citizen, this will be their valid biometric residence card issued under the EEA Regulations.

'Valid' here means that the document is genuine and has not expired or been cancelled or invalidated.

Evidence of the EU citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous residence (for the period on the basis of which they were granted status) in any subsequent application under the scheme by a person relying on their family relationship to that EU citizen.

### Required biometrics

Under the Immigration (Provision of Physical Data) Regulations 2006 (as amended), all applicants during private beta 2 will be required to provide a passport-style facial photograph of themselves (within the meaning of "biometric information" in section 15 of the UK Borders Act 2007) as part of the required application process.

## Validity consideration

If an applicant submits an application which is missing any of the components required for it to be valid, they must be prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application.

Should any of the validity requirements not be met after the applicant has been prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application, the application must be rejected as invalid under rule EU10 of Appendix EU.

Where an application is rejected as invalid, the application fee, if paid in full or in part, will be retained.

## Certificate of application

A digital certificate of application under the EU Settlement Scheme is issued by the Home Office to confirm that the applicant has submitted a valid application under the scheme. It does not confirm that the person has immigration status in the UK. A certificate of application will be issued to the applicant on receipt of a valid application by them under the scheme.

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### Official – sensitive: start of section

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

### Official – sensitive: end of section

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#### Related content

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#### Related external links

[Statement of changes to the Immigration Rules: HC 1534, 11 October 2018](#)  
[Immigration \(European Economic Area\) Regulations 2016](#)

## Making an application: eligibility

This section tells you the requirements for eligibility of an applicant for indefinite leave to remain (ILR) under the EU Settlement Scheme – also referred to for the purposes of the scheme as ‘settled status’ – or for 5 years’ limited leave to remain (LTR) under the scheme – also referred to as ‘pre-settled status’.

Where the applicant is an EU citizen resident in the UK as a family member of an EU citizen resident here, the applicant will be able to rely on their own continuity of residence as a relevant EU citizen to apply for status under the scheme, or they can apply as a family member if they prefer: see [family members](#).

### EU citizens

#### Documented right of permanent residence

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 1 in rule EU11, where they have a documented right of permanent residence, and no supervening event has occurred.

This means that you are satisfied from the information available to you that the applicant has been issued with a document certifying permanent residence issued under regulation 19 of the EEA Regulations, and:

- this document was issued or renewed within the last 10 years, and is not invalid under regulation 19(4)(c)
- this document has not been revoked, and its renewal has not been refused, under regulation 24 (except where the revocation or refusal occurred because the person had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person’s right to reside has not been cancelled under regulation 25

It also means that:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations or since they last completed a period of 5 years’ continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:

## For use during private beta phase 2

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### Existing indefinite leave to enter or remain

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 2 in rule EU11, where there is valid evidence of their indefinite leave to enter or remain in the UK.

This means either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007), a valid stamp or endorsement in a passport (whether or not the passport has expired) or other valid document issued by the Home Office, confirming that the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated
- you are otherwise satisfied from the information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK, and this status both:
  - has not lapsed through absence from the UK for a period of more than 2 consecutive years
  - has not been revoked or invalidated

### Continuous residence of 5 years

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 3 in rule EU11, where they have been continuously resident in the UK for 5 years and no supervening event has occurred, which means that since completing that 5 year period:

- they have not been absent from the UK for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations

## For use during private beta phase 2

- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### Ceased activity

An EU citizen will be eligible for ILR under the scheme, as a relevant EU citizen under condition 4 in rule EU11, with less than 5 years' continuous residence in the UK, where they either:

- were a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement and:
  - immediately before that, they had been a worker or self-employed person in the UK for at least the preceding 12 months
  - had been continuously resident in the UK for more than the preceding 3 years
- stopped being a worker or self-employed person owing to permanent incapacity to work and either:
  - had been continuously resident in the UK for more than the preceding 2 years
  - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK
- were continuously resident in the UK for at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country, while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and length of employment in the first 2 provisions above do not apply where the EU citizen is the spouse or civil partner of a British citizen.

And, in any case, no supervening event has occurred, which means that since the EU citizen ceased activity:

- they have not been absent from the UK for a period of more than 5 consecutive years

## For use during private beta phase 2

- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

### Child under the age of 21

An EU citizen will be eligible for ILR under the scheme, as a child under the age of 21 under condition 7 in rule EU11, with less than 5 years' continuous residence in the UK, where they:

- are a child under the age of 21 of a relevant EU citizen or of their spouse or civil partner (see [assessing family relationship](#)) and either
  - the relevant EU citizen (or the spouse or civil partner) has been or is being granted indefinite leave to remain under the scheme
  - where the child's parent is an Irish citizen who has not made a valid application under the scheme, they would be granted that leave if they made such an application

### Less than 5 years' continuous residence

An EU citizen who has been continuously resident in the UK for less than 5 years at the date of application, and who does not qualify under one of the routes to ILR for those with less than 5 years' continuous residence, will be eligible for 5 years' limited leave to remain, as a relevant EU citizen under condition 1 in rule EU14.

For further information on how to consider an application that meets these requirements please see [consideration of applications - limited leave to remain \(LTR\)](#) below.

#### Related content

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#### Related external links

[Statement of changes to the Immigration Rules: HC 1534, 11 October 2018](#)  
[Immigration \(European Economic Area\) Regulations 2016](#)

# Family members

## Who can apply as a family member?

The following EU citizen or non-EU citizen family members of an EU citizen (including of a dual British-EU citizen in line with the CJEU judgment in Lounes) will be eligible to apply, where they are continuously resident in the UK:

- [Spouse](#)
- [Civil partner](#)
- [Durable partner](#) (unmarried partner whose relationship is akin to marriage or civil partnership)
- [Child under 21 of the EU citizen or of the spouse or civil partner](#)
- [Dependent child over 21 of the EU citizen or of the spouse or civil partner](#)
- [Dependent parent of the EU citizen or of the spouse or civil partner](#)
- [Dependent relative of the EU citizen](#) or of the spouse or civil partner (and the applicant holds a relevant document in this capacity which, where they are the dependent relative of the spouse or civil partner, must have been granted on the basis of an application made before 1 February 2017)

## Documented right of permanent residence

A family member will be eligible for ILR under the scheme, under condition 1 in rule EU11, as the family member of a relevant EU citizen (or as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen), where they have a documented right of permanent residence, and no supervening event has occurred.

This means that you are satisfied from the information available to you that the applicant has been issued with a document certifying permanent residence or a permanent residence card issued under regulation 19 of the EEA Regulations, and:

- this document or card was issued or renewed within the last 10 years, and is not invalid under regulation 19(4)(c)
- this document or card has not been revoked, and its renewal has not been refused, under regulation 24 (except where the revocation or refusal occurred because the person had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)

## For use during private beta phase 2

- the person's right to reside has not been cancelled under regulation 25

It also means that:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### Existing indefinite leave to enter or remain

A family member will be eligible for ILR under the scheme, under condition 2 in rule EU11, as a family member of a relevant EU citizen (or as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen), where there is valid evidence of their indefinite leave to enter or remain in the UK.

This means that either:

- a valid biometric immigration document (as defined in section 5 of the UK Borders Act 2007), a valid stamp or endorsement in a passport (whether or not the passport has expired) or other valid document issued by the Home Office, confirming that the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated
- you are otherwise satisfied from the information available to you (including from Home Office records) that the applicant has indefinite leave to enter or remain in the UK, which has not lapsed or been revoked or invalidated

Where the applicant is a non-EU citizen, it also means that they have provided the required evidence of their family relationship to a relevant EU citizen (see [assessing family relationship](#)).

## 5 years' continuous residence

A family member will be eligible for ILR under the scheme, as the family member of a relevant EU citizen under condition 3 in rule EU11, where:

- they have provided the required evidence of their family relationship to a relevant EU citizen (see [assessing family relationship](#))
- they have been continuously resident in the UK for 5 years as such a family member (or as a relevant EU citizen, as [a family member who has retained the right of residence](#) by virtue of a relationship with a relevant EU citizen, or in any combination of those categories)
- since completing that 5 year period:
  - they have not been absent from the UK for a period of more than 5 consecutive years
  - none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
    - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
    - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1).

## The relevant EU citizen has ceased activity

A family member will be eligible for ILR under the scheme – as the family member of a relevant EU citizen who has ceased activity, under condition 5 in rule EU11 – with less than 5 years' continuous residence in the UK, where the relevant EU citizen has been or is being granted ILR under Appendix EU (or would be so if they made a valid application) and:

- the applicant has provided the required evidence of their family relationship to the relevant EU citizen (see [assessing family relationship](#))
- the relevant EU citizen was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or, in the case of a worker, having taken early retirement and:
  - immediately before that, they had been a worker or self-employed person in the UK for at least the preceding 12 months

## For use during private beta phase 2

- had been continuously resident in the UK for more than the preceding 3 years

or:

- the relevant EU citizen stopped being a worker or self-employed person owing to permanent incapacity to work and either:
  - had been continuously resident in the UK for more than the preceding 2 years
  - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

or:

- the relevant EU citizen was continuously resident in the UK for at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country, while retaining a place of residence in the UK to which they return, as a rule, at least once a week

The conditions as to length of residence and of employment in the second and third provisions above do not apply where the relevant EU citizen is the spouse or civil partner of a British citizen.

The applicant will be eligible for indefinite leave to remain (ILR) where they were the family member of the relevant EU citizen at the point at which the relevant EU citizen became a person who has ceased activity and both:

- since that point, the applicant has not been absent from the UK for a period of more than 5 consecutive years
- since that point, none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

## The relevant EU citizen has died

A family member will be eligible for ILR under the scheme – as the family member of a relevant EU citizen who has died, under condition 6 in rule EU11 – with less than 5 years' continuous residence in the UK, where the criteria in this section are met.

## For use during private beta phase 2

To be eligible for ILR as a family member of a relevant EU citizen who has died, the applicant must meet all of the following:

- provide the required evidence of their family relationship to the relevant EU citizen (see [assessing family relationship](#))
- be the family member of a relevant EU citizen who was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) at the time of their death
- the relevant EU citizen was continuously resident in the UK for at least 2 years before dying, or the death was the result of an accident at work or an occupational disease
- the applicant was resident in the UK with the relevant EU citizen immediately before their death
- since the death of the relevant EU citizen, the applicant has not been absent from the UK for a period of more than 5 consecutive years
- since the death of the relevant EU citizen, none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### A family member who has retained the right of residence

Where the applicant is a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, the applicant will be eligible for ILR on the basis of 5 years' continuous residence (as such a family member or, prior to that, as a family member of a relevant EU citizen or as a relevant EU citizen) where the criteria in this section are met.

To be eligible to apply for ILR as a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, on the basis of 5 years' such continuous residence, the applicant must provide the required evidence of their family relationship to the relevant EU citizen (see [assessing family relationship](#)) and the applicant must:

- be a non-EU citizen who was the family member of a relevant EU citizen and that person died

## For use during private beta phase 2

- have been continuously resident in the UK as the family member of that relevant EU citizen for at least the year immediately before the death of that person

Or the applicant must either:

- be the child of a relevant EU citizen who has died, or of their spouse or civil partner immediately before their death
- be the child of a person who ceased to be a relevant EU citizen on ceasing to reside in the UK, or of their spouse or civil partner at that point; and in either case

In either of the 2 points above, the child was attending a general educational course, apprenticeship or vocational training course in the UK immediately before the relevant EU citizen died or ceased to be a relevant EU citizen on ceasing to reside in the UK, and the child continues to attend such a course.

Or the applicant must:

- be the parent with custody of such a child (meaning that the child normally lives with them or does so part of the time, and includes arrangements which have been agreed informally and those which are subject to a court order for determining with whom the child is to live and when)

Or the applicant must:

- be a non-EU citizen who has ceased to be a family member of a relevant EU citizen on the termination of their marriage to, or civil partnership with, that person - and, for these purposes, where, after the initiation of the proceedings for that termination, that relevant EU citizen ceased to be a relevant EU citizen, they will be deemed to have remained a relevant EU citizen until that termination
- have been resident in the UK at the date of the termination
- meet one of the following:
  - prior to the initiation of the proceedings for the termination of the marriage or civil partnership, the marriage or civil partnership had lasted for at least 3 years and the parties to the marriage or civil partnership had been continuously resident in the UK for at least 1 year during its duration
  - the applicant has custody of a child of the EU citizen

## For use during private beta phase 2

- the applicant has the right of access to a child of the EU citizen, where the child is under the age of 18 years and where a court has ordered that such access must take place in the UK
- the continued right of residence in the UK of the applicant is warranted by particularly difficult circumstances, such as where the applicant or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting

And, in any case, to be eligible for ILR on the basis of 5 years' continuous residence, including as a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, then since completing that 5 year period both the following must apply:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

For further information on how to consider an application that meets any of these requirements for ILR, please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

### Less than 5 years' residence

A family member of a relevant EU citizen, or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, who has been continuously resident in the UK for less than 5 years at the date of application, and who does not qualify under one of the routes to ILR for those with less than 5 years' continuous residence, will be eligible for 5 years' limited leave to remain (LTR), under condition 1 in rule EU14.

For further information on how to consider an application that meets these requirements please see [consideration of applications - limited leave to remain \(LTR\)](#) below.

## Assessing family relationship

Where the applicant is an EU citizen resident in the UK as a family member of an EU citizen resident here, the applicant will be able to rely on their own continuity of residence as a relevant EU citizen to apply for status. They will not need to provide evidence of their family relationship to that EU citizen unless either:

- they are relying on that relationship in one of the categories eligible for settled status with less than 5 years' continuous residence
- they are relying on a retained right of residence by virtue of a relationship with a relevant EU citizen after that relationship has ended
- they became an EU citizen within a period of continuous residence in which they otherwise rely on having been a non-EU citizen family member of an EU citizen

Otherwise, the following family members of a relevant EU citizen will be eligible to apply for status under the scheme on the basis of their relationship to that relevant EU citizen. The following detailed criteria apply in respect of each of these categories of family member at the date the person applies under the scheme.

### Spouse

The applicant is (or for the relevant period was) party to a marriage with the relevant EU citizen and the marriage is recognised under the law of England and Wales, Scotland or Northern Ireland; and it is (or for the relevant period was) not a marriage of convenience; and neither spouse has (or for the relevant period had) another spouse, a civil partner or a durable partner with immigration status in the UK based on that person's relationship with that spouse.

Where the applicant does not already hold a permanent residence document, a spouse must provide evidence of the family relationship for the relevant period, namely a relevant document as the spouse of the relevant EU citizen or a valid document of record of a marriage recognised under the law of England and Wales, Scotland or Northern Ireland.

### Civil partner

The applicant is (or for the relevant period was) in a valid civil partnership (which exists or existed under or by virtue of the Civil Partnership Act 2004) or in a same sex relationship registered overseas (entitled to be treated as a civil partnership under that Act) with the relevant EU citizen; it is (or for the relevant period was) not a civil partnership of convenience; and neither civil partner has (or for the relevant period had) another civil partner, a spouse or a

## For use during private beta phase 2

durable partner with immigration status in the UK based on that person's relationship with that civil partner.

Where the applicant does not already hold a permanent residence document, a civil partner must provide evidence of the family relationship for the relevant period, namely a relevant document as the civil partner of the relevant EU citizen; a valid civil partnership certificate recognised under the law of England and Wales, Scotland or Northern Ireland; or the valid overseas registration document for a same sex relationship which is entitled to be treated as a civil partnership under the Civil Partnership Act 2004.

### Durable partner

The applicant is (or for the relevant period was) in a durable relationship with the relevant EU citizen, with the couple having lived together in a relationship akin to marriage or civil partnership for 2 years or more, unless there is other significant evidence of the durable relationship, for example, evidence of joint responsibility for a child (a birth certificate or a custody agreement showing they are cohabiting and sharing parental responsibility).

The durable partnership must not be (or have been) one of convenience; and neither durable partner has (or for the relevant period had) another durable partner, a spouse or a civil partner with immigration status in the UK based on that person's relationship with that durable partner.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the durable partner of the relevant EU citizen; and unless this confirms the right of permanent residence in the UK under regulation 15 of the EEA Regulations, evidence which satisfies you that the durable partnership continues to subsist (or did so for the period of residence relied upon). This evidence might, for example, take the form of:
  - evidence of cohabitation (bank statements or utility bills in joint names at the same address, rental agreements or mortgage contracts, official correspondence which links them at the same address)
  - evidence of joint finances, business ventures or commitments (tax returns of business contracts, investments)

This is not an exhaustive list and applications should be considered on a case by case basis.

## Marriage, civil partnership or durable partnership of convenience

A marriage, civil partnership or durable partnership of convenience is defined as a marriage, civil partnership or durable partnership entered into as a means to circumvent either:

- any criterion the party would have to meet in order to enjoy a right to enter or reside in the UK under the EEA Regulations
- any other provision of UK immigration law or any requirement of the Immigration Rules
- any criterion the party would otherwise have to meet in order to enjoy a right to enter or reside in the UK under EU law

## Child under 21

The applicant must be the direct descendant of the relevant EU citizen or of their [spouse](#) or [civil partner](#) and includes a grandchild or great-grandchild.

In addition, 'child' includes:

- an adopted child of
- a child born through surrogacy (where recognised in UK law) for
- a child in respect of whom a special guardianship order (within the meaning of section 14A(1) of the Children Act 1989) is in force appointing as their special guardian
- a child in respect of whom an order has been made under section 5 of the Children Act 1989 appointing as their guardian

the relevant EU citizen or their spouse or civil partner (as defined above).

It does not include a child cared for by the EU citizen or by their [spouse](#) or [civil partner](#) solely by virtue of a formal or informal fostering arrangement, but this does not prevent an application being made by or on behalf of a 'looked after' child whom a local authority has placed in foster care.

'Looked after' in this context means the care comes within the meaning of section 22(1) of the Children Act 1989, section 17(6) of the Children (Scotland) Act 1995, section 74(1) of the Social Services and Well-being (Wales) Act 2014 or article 25(1) of the Children (Northern Ireland) Order 1995.

## For use during private beta phase 2

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EU citizen or of their [spouse](#) or [civil partner](#)

In the case of an adopted child, surrogate child or a child subject to any of the guardianship orders referred to above, you must discuss the case with your senior caseworker who may refer to the European Migration Policy Team for further advice.

### Child aged 21 or over

The applicant must be the direct descendant of the relevant EU citizen or of their [spouse](#) or [civil partner](#) and includes a grandchild or great-grandchild and be dependent on the relevant EU citizen or on that spouse or civil partner.

'Dependent' means, as per the CJEU judgment in Reyes, that, as demonstrated by relevant financial, medical or other documentary evidence:

- having regard to their financial and social conditions, or health, the applicant cannot, or for the relevant period could not, meet their essential living needs (in whole or in part) without the financial or other material support of the relevant EU citizen or of the spouse or civil partner
- such support is, or was, being provided to the applicant by the relevant EU citizen or by the spouse or civil partner
- where the applicant was aged 21 or over when they came to the UK to join the relevant EU citizen or the spouse or civil partner, the need for such support existed in the applicant's state of origin or in the state from which they came to the UK, but there is no need to determine the reasons for that dependence or for the recourse to that support

In addition, 'child' includes:

- an adopted child of
- a child born through surrogacy (where recognised in UK law) for

the relevant EU citizen or their [spouse](#) or [civil partner](#).

## For use during private beta phase 2

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EU citizen or of their [spouse](#) or [civil partner](#)

In the case of an adopted or surrogate child you must discuss the case with your senior caseworker who may refer to the European Migration Policy Team for further advice.

You must be satisfied the applicant is dependent on the relevant EU citizen or on the spouse or civil partner. This evidence might take the form of:

- evidence of their dependency, for example, financial evidence of dependency, such as bank statements or money transfers to the applicant from the relevant EU citizen or the spouse or civil partner
- evidence of their dependency prior to coming to the UK, if appropriate

There may be circumstances where the child aged 21 or over does not receive financial support but they are still living in the family home and are unable to live independently, for example due to low income or they may be in further education and remain dependent on a parent for essential living needs. These circumstances must be considered on a case by case basis.

### Dependent parent

The applicant must be the direct relative in the ascending line of the relevant EU citizen or of their [spouse](#) or [civil partner](#) and includes a grandparent or great-grandparent. Their dependency on the relevant EU citizen or the spouse or civil partner is assumed and the applicant is not required to provide evidence of this.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely either:

- a relevant document issued on the basis of the relevant family relationship
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct relative in the ascending line of the relevant EU citizen or of the spouse or civil partner

## Dependent relative

The applicant is a relative of their sponsor (but not their spouse, civil partner, durable partner, child or dependent parent) who holds a relevant document as the dependent relative of their sponsor for the period of residence relied upon.

Their sponsor means either:

- a relevant EU citizen who has been or is being granted indefinite leave to remain or limited leave to remain under the scheme (or who would be granted that leave, if they made a valid application under the scheme)
- the [spouse](#) or [civil partner](#) of such a relevant EU citizen, where the application for that relevant document was made before 1 February 2017

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the dependent relative of their sponsor; and, unless this confirms the right of permanent residence in the UK under regulation 15 of the EEA Regulations, evidence which satisfies you that the relationship and dependency continue to subsist (or did so for the period of residence relied upon) - the circumstances must be considered on a case by case basis

## Other evidence

In addition to the criteria set out above, where the family member applying for status under the scheme is a non-EU citizen without the documented right of permanent residence, their status here under EU law depends on their current or past family relationship to an EU citizen resident in the UK. Therefore, the applicant will need to provide proof of the identity and nationality of the relevant EU citizen of whom the applicant is the family member (or was so for the relevant period). This will be:

- in the case of an EU citizen, their valid passport or their valid national identity card
- in the case of an Irish citizen, their valid passport or their full birth certificate from Ireland or other official documentation which satisfies you of their identity and Irish nationality

You may accept alternative evidence of the identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons.

## For use during private beta phase 2

The applicant will also need to provide evidence which satisfies you of the relevant EU citizen's continuous residence in the UK as well as their own. Evidence of the relevant EU citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous residence (for the period on the basis of which they were granted status).

Also, where the eligibility requirements to be met for leave to be granted under the scheme relate to the death of a person, the required evidence of family relationship must include their death certificate or other evidence which you are satisfied evidences the death.

### Applications in respect of children

Under section 55 of the Borders, Immigration and Citizenship Act 2009, the Home Office has a duty to have regard to the need to safeguard and promote the welfare of children under the age of 18 who are in the UK. In respect of this guidance, the section 55 duty means you need to identify and act on any concerns about the welfare of any child of whom you become aware while considering an application under the scheme.

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

## Suitability

Rules EU15 and EU16 of Appendix EU set out criteria for an application to be refused on suitability grounds.

Rule EU15 sets out mandatory grounds of refusal:

- under EU15(a) of [Appendix EU](#), an applicant must be refused if, at the date of decision, they are the subject of an extant deportation order or of a decision to make a deportation order
- under EU15(b), an applicant must be refused if, at the date of decision, they are the subject of an extant exclusion order or exclusion decision
- under EU15(c), an applicant must be refused if, at the date of decision, they are the subject of a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights under [Directive 2004/38/EC](#) (this means that the applicant is subject to a decision, on those grounds, to remove them from the UK under regulation 23 or 32 of the EEA Regulations, unless this decision has been set aside or no longer has effect in respect of the person)

Applicants (aged 18 or over) are required to provide information about previous criminal convictions in the UK and overseas and are only required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application.

Applicants (aged 18 or over) are also required, as in other immigration applications, to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide.

All applications are subject to a check against the Police National Computer (PNC) and the Warnings Index (WI).

From information provided by the applicant and obtained from the PNC and WI, you will conduct an initial assessment of suitability, taking account of length of previous residence where relevant, to establish whether the application should be referred to Immigration Enforcement (IE) for full case by case consideration of the individual's conduct under the public policy, public security or public health test as set out in the EEA Regulations 2016 and EEA Public Policy and Security Guidance. If an enforcement decision is then made by IE that falls within rule EU15, the application must be refused.

Rule EU16 provides that you may refuse an application where you are satisfied at the date of decision that:

## For use during private beta phase 2

- in relation to the application and whether or not to the applicant's knowledge, false or misleading information, representations or documents have been submitted (including false or misleading information submitted to any person to obtain a document used in support of the application)
- the information, representation or documentation is material to the decision whether or not to grant the applicant leave under the scheme
- the decision to refuse the application on this basis is proportionate

Rule EU16 of [Appendix EU](#) is a discretionary provision. When considering whether to refuse under rule EU16, you must examine whether the deception is material to the decision whether to grant leave under the scheme. Where the applicant or a third party has submitted false information, representations or documents which are material to the decision, whether or not to the applicant's knowledge, you may then refuse the application under this provision, provided it is proportionate to do so.

See: [EU Settlement Scheme: suitability requirements](#) for more detailed guidance on suitability assessment.

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# Qualifying residence

## Continuity of residence

Being continuously resident in the UK generally means that the applicant has not been absent from the UK for more than 6 months in total (in a single period of absence or more than one) in any given 12-month period, throughout the period of residence relied upon by the applicant.

There are some exceptions:

- a single period of absence of more than 6 months but which does not exceed 12 months is permitted, where this is for an important reason, such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting:
  - evidence to support an absence as a result of pregnancy, childbirth or serious illness might take the form of a letter or other records from a qualified medical professional
  - evidence to support an absence as a result of study, vocational training or an overseas posting might take the form of a letter or other records from the relevant educational establishment or employer
- any period of absence on compulsory military service:
  - evidence to support a period of absence as a result of compulsory military service might take the form of a letter or other records from the relevant government body

Where the person has been continuously resident in the UK for less than 5 years, continuity of residence is broken, and restarts from scratch on release, where the applicant served or is serving a sentence of imprisonment of any length in the UK.

There is an exception where:

- the applicant has resided in the UK continuously for at least 10 years (and has the right of permanent residence in the UK under the EEA Regulations)
- you consider that they had forged integrating links with the UK (such as family and social ties and employment history) which were not broken by imprisonment
- overall, it would not be appropriate to treat imprisonment as breaking continuity of residence

## For use during private beta phase 2

If there are instances where the above circumstances apply you must discuss with your senior caseworker who may refer to the European Migration Policy Team for further advice.

Continuity of residence is also broken by any of the following, unless it has been set aside or no longer has effect in respect of the person:

- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)
- an exclusion decision
- a deportation order (other than under the EEA Regulations)

If there are instances where the above circumstances apply you must discuss with your senior caseworker who may refer to European Migration Policy team or Immigration Enforcement colleagues for further advice.

Once the applicant has been continuously resident in the UK for 5 years, they may rely on this in applying for settled status under the scheme (under condition 3 in rule EU11) where, since completing that 5 year period, there has been no 'supervening event' (as described above). This means, for example, that, since completing that 5 year period, they have not been absent from the UK for more than 5 consecutive years.

## Automated checks (Application Programming Interface (API))

In all cases in which the applicant provides their National Insurance number checks will be run against HMRC and, once this function is available, DWP records to establish what those records tell us about the applicant's recent continuous residence in the UK.

Where these checks indicate that the applicant has been continuously resident in the UK for 5 years, and where the applicant has confirmed, by way of a self-declaration as part of the application process, that they have not since been absent from the UK for a period of more than 5 consecutive years, no further evidence of residence will be required to determine eligibility. The applicant will be asked to confirm this is correct and, subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted indefinite leave to remain (ILR).

Where these checks indicate that the applicant has been continuously resident in the UK for less than 5 years, and the applicant confirms this (and does not claim to qualify for settled status on the basis of less than 5 years'

## For use during private beta phase 2

continuous residence), no further evidence of residence will be required to determine eligibility. Subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted 5 years' limited leave to remain (LTR).

Where these checks indicate that the applicant has been continuously resident in the UK for less than 5 years, and the applicant does not accept this (or claims to qualify for settled status on the basis of less than 5 years' continuous residence), the applicant will be asked to provide documentary evidence, to satisfy you of their eligibility for ILR. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILR. If they do not meet the eligibility requirements for ILR but have been continuously resident in the UK for less than 5 years, subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, they will be granted LTR.

Where these checks do not provide any evidence of the applicant's UK residence, or the applicant does not provide a National Insurance number, the applicant will be asked to provide documentary evidence to satisfy you that they meet the requirements for eligibility for either ILR or LTR. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILR or LTR as appropriate.

See [Annex A](#) for further information on evidence which may be provided where automated checks do not confirm continuity of residence as claimed by the applicant.

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

# Consideration of applications: indefinite leave to remain (ILR)

An applicant who has made a valid application will be eligible for indefinite leave to remain (ILR) as a relevant EU citizen or their family member where you are satisfied (including, where applicable, by the required evidence of family relationship) one of the conditions of rule EU11 of Appendix EU is met:

- [Permanent residence \(PR\) document holders](#)
- [Indefinite leave to remain \(ILR\) or indefinite leave to enter \(ILE\) holders](#)
- [Applicant has completed a continuous qualifying period of 5 years](#)
- [A relevant EU citizen who is a person who has ceased activity](#)
- [Family member of a relevant EU citizen who is a person who has ceased activity](#)
- [Family member of a relevant EU citizen who has died](#)
- [Child under the age of 21 years of a relevant EU citizen or of their spouse or civil partner](#)

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

**Official – sensitive: end of section**

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## Permanent residence (PR) document holders

Under condition 1 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that they have a documented right of PR and no supervening event has occurred.

### Requirements

You must be satisfied that, at the date of application:

- the applicant has been issued with a document certifying permanent residence or a permanent residence card under the EEA Regulations
- the document or card was issued or renewed within the last 10 years, and is not invalid under regulation 19(4)(c) because the applicant never had a right of permanent residence
- the document or card has not been revoked, and its renewal has not been refused under regulation 24 (except where the revocation or refusal occurred because the applicant had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25

In addition, you must be satisfied that no supervening event has occurred. A supervening event means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of PR in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### Evidence to be produced

The applicant must provide confirmation, via self-declaration within the application process, that they have not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the

## For use during private beta phase 2

right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK.

As set out above, you must be satisfied that the applicant has been issued with a document certifying permanent residence or a permanent residence card under the EEA Regulations.

If an applicant cannot provide the PR document or its reference number, for example because it is damaged or obscured, or it never had one, you must check Home Office records and, if there is no record available, contact the applicant for further details such as approximate date of issue to narrow any searches. If there is still no trace, the applicant must be invited to submit the document for you to consider. In these circumstances, you must discuss this with your senior caseworker.

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If the applicant has been subject to a decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations or a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK (unless that decision arose from a previous decision under regulation 24(1)), you must discuss with your senior caseworker before further action is taken.

Where an applicant has declared that they have a documented right of PR and they have not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK, but it is identified during the caseworking process that this is not the case, the applicant is not eligible for ILR under this condition. If the applicant has relied on their PR documentation as the basis for a fee exemption, this exemption does not apply and the application must be rejected as invalid on the grounds of non-payment of the required fee.

## Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

## For use during private beta phase 2

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their eligibility for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

### Scenario 1

Miss A has applied on the basis of having documented permanent residence and has supplied her valid permanent residence card. There is no evidence to suggest that her permanent residence has lapsed. Miss A will be eligible for ILR, subject to identity and suitability checks.

### Scenario 2

Mrs B applies and states that she has documented permanent residence, but information indicates that when she applied for her permanent residence document to be renewed her application was refused as she had been absent from the UK for more than 2 years since it was issued.

Evidence provided confirmed that Mrs B was out of the UK for 3 consecutive years and this does not therefore constitute a supervening event. Mrs B will be eligible for ILR, subject to identity and suitability checks.

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## Indefinite leave to enter (ILE) or indefinite leave to remain (ILR) holders

Under condition 2 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that they are a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, and there is valid evidence of their ILE or ILR.

### Requirements

You must be satisfied that, at the date of application, there is valid evidence of the applicant's ILE or ILR which means either:

- the applicant has been issued with a valid biometric residence permit, a valid stamp or endorsement in a passport (whether or not the passport has expired), or other valid document issued by the Home Office confirming that the applicant has ILE or ILR in the UK
- you are otherwise satisfied from the information available to you that the applicant has ILE or ILR in the UK
- in either case, the status has not lapsed (by an absence from the UK for a period of more than 2 consecutive years) or been revoked or invalidated (for example, because a deportation order has been made against the applicant)

### Evidence to be produced

The applicant must provide confirmation, via self-declaration within the application process, that their ILE or ILR has not lapsed through absence from the UK for a period of more than 2 consecutive years or been revoked or invalidated.

As set out above, you must be satisfied that there is valid evidence of the applicant's ILE or ILR.

For information on evidence required to assess family relationships with family members of EU citizens, see [assessing family relationship](#).

### Applicants unable to provide evidence of ILE / ILR

Where an applicant applies on the basis of having ILE or ILR but does not provide documentary evidence of this status, you must check Home Office records to confirm whether the Home Office holds any information confirming the status being claimed by the applicant. Where Home Office records confirm the status, you must accept this as evidence of that status.

## For use during private beta phase 2

Applicants who claim to have an historical grant of ILE / ILR that they are unable to provide evidence of and which pre-dates current Home Office records may be able to apply under the Windrush Programme to have their status checked and documented. Further information can be found [here](#).

If the applicant is unable to provide any evidence of their status, and no such evidence exists in Home Office records, you are unable to grant the application under this condition.

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### Official – sensitive: start of section

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### Official – sensitive: end of section

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Where an applicant has declared that their ILE or ILR has not lapsed through absence from the UK for a period of more than 2 consecutive years or been revoked or invalidated but it is identified during the caseworking process that their status has, in fact, lapsed or been lost, you are unable to grant the application under this condition.

If the applicant has relied on their ILE or ILR status as the basis for a fee exemption, then, as the fee exemption does not apply, the application must be rejected as invalid on the grounds of non-payment of the required fee.

## Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

## Scenario 1

Mr C is the non-EU citizen spouse of an EU citizen and has applied on the basis of having ILR in the UK. He has provided his expired passport which contains a valid stamp confirming that he has been granted ILR along with evidence of his marriage to an EU citizen and there is no evidence to suggest that he has been absent from the UK for a period of more than 2 consecutive years. Mr C is eligible for ILR, subject to identity and suitability checks.

## Scenario 2

Dr D, an EU citizen, claims to have been granted ILR but states that she has lost the relevant document.

Home Office records confirm that Dr D was granted ILR as claimed and there is no evidence to suggest this has lapsed or been revoked or invalidated. Dr D is eligible for ILR, subject to identity and suitability checks.

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## Applicant has completed a continuous qualifying period of 5 years

Under condition 3 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that the applicant is either:

- a relevant EU citizen
- a family member of a relevant EU citizen
- a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen

and both the following apply:

- has completed a continuous qualifying period of 5 years in any (or any combination) of the above categories
- since then no supervening event has occurred

## Requirements

You must be satisfied that, at the date of application, the applicant has completed a period of 5 years' continuous residence in the UK as a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen (or in any combination of those categories).

In addition, you must be satisfied that since then no supervening event has occurred, which means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

## Evidence to be produced

Automated checks will be undertaken with HMRC and, once this function is available, DWP as part of the application process which may provide evidence that the applicant has completed a period of 5 years' continuous residence in the UK. See [automated checks](#) for further information.

Should these checks not provide sufficient evidence of residence in the UK, the applicant will be invited to provide evidence that, when combined with the evidence supplied by the automated HMRC and DWP checks, confirms that they have completed a period of 5 years' continuous residence in the UK – see [Annex A](#).

The applicant must also provide a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of PR in the UK, or since they last completed a period of 5 years' continuous residence in the UK.

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

For guidance on the requirements to be met by a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen, see [a family member who has retained the right](#) of residence.

## Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

## Scenario 1

Professor E has applied on the basis of being a French citizen who has been living in the UK continuously for the past 8 years. Automated checks from HMRC confirm that he has been working in the UK for 7 years. The data runs up to the month before his application, so it is not possible for him to have been absent for more than 5 consecutive years since then, and there is no evidence of any other supervening event. Professor E is eligible for ILR, subject to identity and suitability checks.

## Scenario 2

Mrs F has applied on the basis of being the Brazilian spouse of her Italian husband, and the relationship and relevant identities are confirmed. She claims that both she and her husband have been resident in the UK since 2012. Home Office records show her husband was issued with a document certifying permanent residence in 2017 and automated checks show that Mrs F was employed from 2013-2015. Mrs F provides council tax bills for the period 2015-2018 dated and addressed to both her and her husband. Mrs F is eligible for ILR, subject to suitability checks.

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## A relevant EU citizen who has ceased activity

Under condition 4 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that the applicant is:

- a relevant EU citizen who is a person who has ceased activity
- since they did so, no supervening event has occurred

## Requirements

You must be satisfied that, at the date of application, the applicant is a person who has ceased activity. Further detail on this is set out below.

In addition, you must be satisfied that since then no supervening event has occurred, which means that, at the date of application:

- the applicant has not have been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
  - a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1).

## Retired

You must be satisfied that, at the date of application, the applicant:

- has terminated activity as a worker or self-employed person in the UK and either:
  - reached the [age of entitlement to a state pension](#) on terminating that activity
  - in the case of a worker, ceased working to take early retirement
- immediately before that termination:

## For use during private beta phase 2

- was a worker or self-employed person in the UK for at least 12 months
- was continuously resident in the UK for a period of more than 3 years.

The conditions above as to length of residence and of employment do not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EU citizen is the spouse or civil partner of a British citizen.

### Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of the applicant's retirement, for example, a relevant HMRC form, letter from employer, pension statements
- evidence of employment in the UK for at least 12 months before retirement in the form of, for example, pay slips or letter from employer
- evidence that they were continuously resident in the UK for more than 3 years before retirement (either from the automated checks with HMRC and DWP or as provided by the applicant)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity

See [Annex A](#) for examples of documents which may be submitted to confirm residence in the UK.

### Permanent incapacity

You must be satisfied that, at the date of application, the applicant has:

- stopped being a worker or self-employed person owing to permanent incapacity to work and either:
  - having been continuously resident in the UK for a period of at least the preceding 2 years
  - the incapacity having resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

The condition above as to length of residence does not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EU citizen is the spouse or civil partner of a British citizen.

## For use during private beta phase 2

### Evidence to be produced

Evidence which may be relevant to the requirements above includes either:

- evidence of their permanent incapacity to work, in the form of, for example, a letter from their hospital consultant
- evidence of an accident at work or an occupational disease, in the form of, for example, a letter from a hospital consultant
  - confirmation, in the form of a letter or pension statements, that the occupational disease entitles the applicant to a pension payable in full or in part by an institution in the UK

and:

- evidence (where relevant) that they were continuously resident in the UK for a period of at least the preceding 2 years (either from the automated checks with HMRC and DWP or as provided by the applicant)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity

See [Annex A](#) for examples of documents which may be submitted to confirm residence in the UK.

### Worker or self-employed person who has retained a place of residence

You must be satisfied that, at the date of application, the applicant was continuously resident in the UK for a period of at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country. Also, they must have retained a place of residence in the UK to which they return, as a rule, at least once a week.

Being a 'worker' means that there is evidence which satisfies you that the applicant is either:

- a worker as defined in regulation 4(1) of the EEA Regulations
- a person who is no longer working but who continues to be treated as a worker within the meaning of "qualified person" under regulation 6

Being a 'self-employed person' means that there is evidence which satisfies you that the applicant is either:

## For use during private beta phase 2

- a self-employed person as defined in regulation 4(1) of the EEA Regulations
- a person who is no longer in self-employment but who continues to be treated as a self-employed person within the meaning of “qualified person” under regulation 6

### Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of continuous residence in the UK for a period of at least 3 years (either from the automated checks with HMRC and DWP or as provided by the applicant)
- evidence of having been a worker or self-employed person in the UK for that period of at least 3 years, in the form of, for example, pay slips or letter from employer
- evidence of becoming a worker or self-employed person in another EU country immediately after leaving the UK, in the form of, for example, pay slips or letter from employer
- evidence of retaining a place of residence in the UK to which the applicant returns, for example, utility bills which shows:
  - evidence that the applicant returns to this place, as a rule, at least once a week, for example travel tickets
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity

### Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the requirements in one of the above sub-sections, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the requirements in one of the above sub-sections, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years’ limited leave to remain (LTR) under condition 1 in rule EU14.

## Scenario 1

Mr G, a 68 year old French citizen, has applied on the basis of being a retired worker since 2016. Automated checks from HMRC show that he was in employment in the UK for 3 years before retiring, and statements provided confirm he has been in receipt of a pension since 2016. Mr G is eligible for ILR, subject to identity and suitability checks.

## Scenario 2

Ms H, a German citizen, has been living in the UK since 2014. She worked from 2014-2017 before she was injured in an industrial accident and was unable to continue work as a result. A letter from her hospital consultant confirms she is no longer able to work in any capacity, automated checks from HMRC confirm her period of work as claimed and she has confirmed via self-declaration that she has not left the UK since and there is no evidence to suggest otherwise. Ms H is eligible for ILR, subject to identity and suitability checks.

## Scenario 3

Professor J, a Greek citizen, has applied on the basis of being a worker with a retained place of residence in the UK. She claims that she lived in the UK from 2012-2016 and has since been working in the Czech Republic whilst returning to her house in the UK at least once a week.

The automated checks from HMRC show that she was employed in the UK for the period claimed, and she has provided payslips and bank statements evidencing her employment in the Czech Republic. Professor J has also provided utility bills for her address in the UK from 2016 to the date of application and flight history showing that she returns to the UK every weekend. Professor J is eligible for ILR, subject to identity and suitability checks.

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## Family member of a relevant EU citizen who is a person who has ceased activity

Under condition 5 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that all of the following apply:

- the applicant is a family member of a relevant EU citizen who is a person who has ceased activity
- the applicant was such a family member at the point the EU citizen became a person who has ceased activity
- the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it)
- since the relevant EU citizen became a person who has ceased activity, no supervening event has occurred

## Requirements

You must be satisfied that, at the date of application:

- the applicant is a family member of a relevant EU citizen, and was so at the point the relevant EU citizen became a person who has ceased activity
- the relevant EU citizen is a person who has ceased activity
- the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it)

In addition, you must be satisfied that since the relevant EU citizen became a person who has ceased activity, no supervening event has occurred, which means that, at the date of application both:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years' continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:

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- any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that the relevant EU citizen is a person who has ceased activity and that the applicant was their family member when they did so - for further information on ceased activity see [ceased activity](#) above
- evidence that the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it), for example, status previously issued or current application reference number
- a self-declaration that the applicant has not been absent from the UK for a period of more than 5 consecutive years since the relevant EU citizen became a person who has ceased activity

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

### Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

### Scenario 1

Mrs K, a 60 year old Chinese citizen, has applied on the basis of being the spouse of an EU citizen who ceased activity in 2015. She has provided her marriage certificate and husband's passport, and documents that show that her husband was in employment for 3 years before retiring and since 2015 he has been in receipt of a pension. No evidence of a supervening event is present. Mrs K is eligible for ILR, subject to identity and suitability checks.

## Scenario 2

Mr L, a Mexican citizen, has applied at the same time as his wife, a Swedish citizen, who ceased activity in 2016. A marriage certificate has been provided to confirm the relationship and casework action on Mrs L's application has resulted in a grant of ILR as an EU citizen who has ceased activity. No evidence of a supervening event is present. Mr L is eligible for ILR, subject to identity and suitability checks.

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## Family member of a relevant EU citizen who has died

Under condition 6 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a family member of a relevant EU citizen who has died and the relevant EU citizen was in the UK as a worker or self-employed person at the time of their death
- the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before dying, or the death was the result of an accident at work or an occupational disease
- the applicant was resident in the UK with the relevant EU citizen immediately before their death and since then no supervening event has occurred

## Requirements

You must be satisfied that, at the date of application:

- the applicant is a family member of a relevant EU citizen who has died, and the applicant was resident in the UK with the relevant EU citizen immediately before their death
- the relevant EU citizen was resident in the UK as a worker or self-employed person at the time of their death
- the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before dying, or the death was the result of an accident at work or an occupational disease

In addition, you must be satisfied that since the death of the relevant EU citizen, no supervening event has occurred, which means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years continuous residence in the UK
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
  - any decision or order to exclude or remove them from the UK under regulation 23 or 32 of the EEA Regulations

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- a decision to which regulation 15(4) of the EEA Regulations otherwise refers in respect of their right to permanent residence in the UK, unless that decision arose from a previous decision under regulation 24(1)

### Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that that the applicant was resident in the UK with the relevant EU citizen when they died
- evidence that the relevant EU citizen was resident in the UK as a worker or self-employed person at the time of their death
- evidence that the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before their death, or the death was the result of an accident at work or an occupational disease (such as a letter from a qualified medical professional, for example a hospital consultant or GP)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since the relevant EU citizen died

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

### Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

### Scenario 1

Mrs M is a Sri Lankan citizen, who was married to a Danish citizen. Both were employed together in the UK for 10 years and she claims they continuously resided together in the UK since they were married 13 years ago. After a short illness, Mr M passed away in 2016. Mrs M has provided a marriage certificate and Mr M's passport and death certificate. Mrs M has also provided Mr M's pay slips which confirm that he was in employment immediately before his

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death in 2016. There is no evidence of a supervening event. Mrs M is eligible for ILR, subject to identity and suitability checks.

### Scenario 2

Dr N is a Brazilian citizen who was married to Mr N, a French citizen in the UK who had been working for 6 years. Mr N has died after contracting an occupational disease; this is confirmed by both his death certificate and a hospital consultant's letter. Dr N has provided a marriage certificate and Mr N's French ID card. P60s confirm Mr N's employment as claimed and there is no evidence of a supervening event. Dr N is eligible for ILR, subject to identity and suitability checks.

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## Child under the age of 21 of a relevant EU citizen or of their spouse or civil partner

Under condition 7 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a child under the age of 21 of a relevant EU citizen or of their [spouse](#) or [civil partner](#) and the relevant EU citizen (or the spouse or civil partner) has been or is being granted indefinite leave to remain under the scheme
- where the child's parent is an Irish citizen who has not made a valid application under the scheme, they would be granted that leave if they made such an application

### Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant is the child of the relevant EU citizen, or of the spouse or civil partner, for example, a birth certificate and a marriage certificate if applicable
- evidence that the relevant EU citizen, or the spouse or civil partner, has been or is being granted ILR under the scheme
- if the child's parent is an Irish citizen who has not made a valid application, evidence they would be granted ILR if they made such an application, for example, their valid passport, national identity card or full birth certificate from Ireland and evidence of 5 years' continuous residence in the UK, with no subsequent supervening event

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

### Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions in rule EU11 and otherwise their eligibility for 5 years' limited leave to remain (LTR) under condition 1 in rule EU14.

## Scenario 1

Miss O, a 12 year old Argentinian citizen, has applied as the daughter of her Portuguese mother, Mrs O. She has provided her birth certificate which confirms her relationship to Mrs O and Mrs O's reference number confirming a grant of ILR under the scheme, which you have confirmed by checking Home Office records. Miss O is eligible for ILR, subject to identity and suitability checks.

## Scenario 2

Mr P, a 16 year old Ecuadorian citizen, has applied as the son of Ms P, who is in a civil partnership with Ms Q, a Latvian citizen. A birth certificate and civil partnership certificate have been produced to confirm both relationships are as claimed and Ms Q's passport confirms that she is a Latvian citizen.

A reference number provided confirms that Ms P has been granted ILR under the scheme. Mr P is eligible for ILR in line, subject to identity and suitability checks.

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# Consideration of applications: 5 years' limited leave to remain (LTR)

An applicant who has made a valid application but does not meet the eligibility requirements for indefinite leave to remain (ILR) under rule EU11 of Appendix EU will be eligible for 5 years' limited leave to remain (LTR) under condition 1 of rule EU14 where you are satisfied including, where applicable, by required evidence of family relationship, that at the date of application both:

- the applicant is a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence by virtue of a relationship with a relevant EU citizen
- the applicant is not eligible for ILR solely because they have been continuously resident in the UK for less than 5 years

## Evidence to be produced

Automated checks will be undertaken with HMRC and, once this function is available, DWP which may provide evidence that the applicant has completed a continuous period of residence in the UK of less than 5 years. See [automated checks](#) for further information.

Should these checks not provide any evidence of residence in the UK, the applicant must be invited to provide evidence that confirms that they have completed a period of continuous residence in the UK. See [Annex A](#) for examples of the forms of evidence that they may provide to do so.

For information on evidence required to assess family relationships with EU citizens, see [assessing family relationship](#).

## Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, they will be eligible for LTR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, the application must be refused as ineligible. For further information, please see [refusals](#) section below.

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**Official – sensitive: end of section**

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# Refusals

There is no basis to refuse a valid application under the scheme beyond the eligibility and suitability conditions set out in Appendix EU, which are consistent with the draft Withdrawal Agreement.

A valid application under Appendix EU which does not meet the eligibility requirements for indefinite leave to remain or limited leave to remain will be refused under rule EU6.

If you require further information you must discuss the case with your senior caseworker who may refer to the European Migration Policy Team for further advice.

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## Annex A

### Evidence required to establish residence in the UK

Many applicants will have their residence confirmed by automated checks of HMRC and, once this function is available, DWP data. However, where those checks indicate that an applicant who does not hold a permanent residence document has been continuously resident in the UK for a period of less than 5 years – or do not indicate that the applicant has been and remains continuously resident here – the applicant will be able to upload documentary evidence to satisfy you that they are continuously resident here and, where appropriate, that they have been so for at least 5 years or that they are in one of the categories eligible for ILR with less than 5 years' continuous residence.

This Annex provides non-exhaustive lists of the type of documentary evidence which the applicant will be able to provide. The guidance below is not prescriptive or definitive. Some applicants may lack documentary evidence in their own name for various reasons; you must work flexibly with applicants to help them evidence their continuous residence in the UK by the best means available to them.

The applicant may submit several types of evidence to cover their claimed period of continuous residence. For example, a dated and signed letter from an employer confirming a 12 month period of UK-based employment which has been undertaken, and confirmation of the employer's status, may be submitted as evidence of residence in the relevant 12 month period and bank statements may be submitted as evidence of residence in the subsequent 12 month period.

You may request further evidence of residence if appropriate and, where you do so, must ensure that the applicant is given reasonable opportunity to provide it before a decision on the application is made.

### Preferred evidence

The documents listed below are preferred evidence because a single document may cover a significant period. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers:

- an annual bank statement or an account summary covering a 12 month period, showing payments received or spending in the UK in at least six months of that 12 month period
- annual business accounts of a self-employed person

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- a dated and signed letter from an employer, confirming the duration of a period of UK-based employment which has been undertaken, and confirmation of the employer's status (such as registration with HMRC or Companies House) - this will be considered evidence of residence for the period of that employment
- a P60 for a 12 month period (you may request additional evidence to confirm that the person has been resident in the UK for at least 6 months of that period)
- a P45 confirming the duration of a period of employment which has ceased - this will be considered evidence of residence for the period of that employment
- a dated and signed letter from an accredited organisation in the UK confirming physical attendance at a course and its duration, or confirming enrolment on a course accompanied by dated and signed evidence of completion (such as a qualification certificate) - this will be treated as evidence of residence for the duration of the course
- a dated and signed letter from a registered care home confirming the period of residence in the home - this will be treated as evidence of residence for that period
- a dated, addressed invoice from an accredited organisation for school, college or university fees for education requiring physical attendance in the UK, which includes the name of the student, and accompanying evidence of payment - this will be treated as evidence of residence for the relevant academic term(s) or year
- documentation issued by the student finance body for England, Wales, Scotland or Northern Ireland or the Student Loans Company that shows a UK address, such as an entitlement notification or repayment statement - this will be treated as evidence of residence for the relevant academic term(s) or year
- a residential mortgage statement or tenancy agreement, and accompanying evidence of the mortgage or rent being paid (for example, confirmation from the lender or landlord), will be treated as evidence of residence for the period covered by the statement or agreement
- a dated, addressed council tax bill will be treated as evidence of residence for the period covered by the bill
- evidence of an employer making pension contributions will be treated as evidence of residence for the period covered by the contributions where the employment requires physical presence in the UK

## Alternative evidence

Because the documents listed below cover a shorter period, the applicant may need to submit more of them to evidence that they meet the residence requirement. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers:

- a dated bank statement (other than an annual statement, as above) showing payments received or spending in the UK this will be treated as evidence of residence for the period covered by the bank statement
- a dated payslip for a UK-based job will be treated as evidence of residence for the period covered by that payslip
- a dated invoice for work you have done in the UK, and accompanying evidence of payment - this will be treated as evidence of residence for the month in which the invoice is dated
- a dated, UK-addressed domestic utility bill featuring the applicant's name will be treated as evidence of residence for the period covered by the bill
- a dated, UK-addressed domestic bill or contract for a mobile or fixed line telephone or for a TV or internet service featuring the applicant's name will be treated as evidence of residence for the period covered by the bill or contract
- a dated letter from a UK GP or other healthcare professional confirming the applicant's attendance at appointment(s), or a card issued by the healthcare professional confirming those appointment(s) - this will be treated as evidence of residence for the period covered by the appointments (or for the month in which a single appointment occurred)
- a dated letter, or benefit claims made to, a UK government department, another UK public body or a UK charity confirming the applicant's physical interaction with them, for example Job Centre Plus or Citizens' Advice or a registration card or certificate issued under the Worker Registration Scheme - this will be treated as evidence of residence for the month in which it is dated, unless it explicitly confirms interactions over a longer period
- other dated, UK-addressed domestic bills, for example, for insurance, veterinary bills or home services/repairs, featuring the applicant's name and accompanying evidence of payment will be treated as evidence of residence for the month in which the bill is dated
- a passport stamp confirming entry at the UK border - this will be treated as evidence of residence for the month of entry

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- a used travel ticket confirming previous inbound travel to the UK - this will be treated as evidence of residence for the month of entry

### Unacceptable evidence

The documents listed below are not from an official or other impartial source, or are not accessible by Home Office caseworkers, and so are not acceptable as evidence of continuous residence for the scheme and should not be provided:

- character references or testimonials from family and friends
- photographs of a wedding or other special occasion
- greetings cards or postcards sent or received
- a personal scrapbook or similar

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