



# Free Movement Rights: extended family members of EEA nationals

**Version 7.0**

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

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# About this guidance

This guidance tells you how to consider an application from an extended family member of a European Economic Area (EEA) or Swiss national for a document to confirm a right of residence given by the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations).

## Swiss nationals

Switzerland is not part of the EEA, but Swiss nationals and their family members have the same free movement rights as EEA nationals. All references to EEA nationals in this guidance also refer to Swiss nationals.

This guidance applies and interprets the 2016 regulations. The regulations make sure the UK complies with its duties under the Free Movement of Persons Directive 2004/38/EC.

## Contacts

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

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

## Publication

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

- version **7.0**
- published for Home Office staff on **27 March 2019**

## Changes from last version of this guidance

In the section ‘appeal rights’: the text ‘From 29 March 2019 extended family members applying for a family permit, residence card or registration certificate may be eligible for a right of appeal against the refusal of such document, if they meet the criteria of regulation 36(4) of the 2016 regulations’ has been added to reflect the 2019 amendments to the Immigration (European Economic Area) Regulations 2016.

### Related content

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### Related external links

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

# Applying for a document as an extended family member

This page tells you about the documents that an extended family member of a European Economic Area (EEA) national can apply for.

Extended family members must be treated as family members for the purposes of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) if they have been issued with an EEA family permit, a registration certificate or a residence card and continue to satisfy the conditions set out in regulation 7(3).

Applications for an EEA family permit made from outside the UK must be made online, submitted electronically [using the relevant pages of GOV.UK](#), or by post or in person at the relevant visa application centre overseas. If granted, an extended family member will be issued an EEA family permit.

EEA family permits are issued free of charge and are valid for a period of 6 months. Once the extended family member is in the UK with an EEA family permit, they must apply before that permit expires for either a:

- residence card for non-EEA nationals
- registration certificate for EEA nationals

Extended family members are only entitled to a right to enter or reside where refusing them this right would deter the EEA national from exercising their treaty rights.

In line with the [Immigration \(Provision of Physical Data\) Regulations 2006 \(as amended\)](#), from 6 April 2015 a non-EEA national applying for a residence card, derivative residence card or permanent residence card will have to enrol their biometric information in order to be issued a document confirming their right to reside in the UK under European Union (EU) law.

Any references to a residence card, derivative residence card or permanent residence card in this guidance should be taken to also mean a document issued in a biometric format.

See Biometric information for further guidance on the process for enrolling biometrics.

Apart from an EEA family permit, applications for the above documents are subject to application fees. For more information on the application process, forms and the documents required, see: Process and procedures.

## Related content

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## Related external links

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

# Definition and rights of an extended family member

This page tells you which members of a European Economic Area (EEA) national's family qualify as extended family members under the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) and gives information about their rights.

## Definition of extended family member

Regulation 8 defines an extended family member as a person who is not a family member of an EEA national under regulation 7(1)(a), (b) or (c) and who is either:

- a relative of an EEA national who is residing in a country other than the UK and is dependent on the EEA national
- is a member of their household and either:
  - is accompanying the EEA national to the UK or wishes to join them
  - has joined them in the UK and continues to be dependent on them or to be a member of their household
- a relative of an EEA national who strictly requires the personal care of the EEA national due to serious health grounds
- a relative of an EEA national who would meet the requirements of the Immigration Rules for indefinite leave to remain (other than those relating to entry clearance) as a dependent relative of an EEA national as if the EEA national was a person present and settled in the UK
- the partner (other than a civil partner) of an EEA national who can prove they are in a durable relationship with the EEA national

There is no limit on the distance of the relationship between the EEA national and the extended family member as long as they can provide valid proof of the relationship between them.

From 1 February 2017 the rights of extended family members only applies to relatives of the EEA national and not to relatives of the EEA national's spouse or civil partner. This means that an extended family member can no longer rely on their relationship to the EEA national's spouse or civil partner in order to meet the requirements of regulation 8. Instead, they must show that they are related to the EEA national.

## Transitional arrangements

In order not to disadvantage applicants who have already been issued documentation on the basis that they are the relative of an EEA national's spouse or civil partner, an extended family member can continue to be regarded as the relative of an EEA national's spouse or civil partner where:

- prior to 1 February 2017, they have been issued with either:

- an EEA family permit
  - a registration certificate
  - a residence card
- they have been continuously resident in the UK, since the most recent issue of one of the above documents

For example, an extended family member submits an application for a permanent residence card on 1 April 2017. They provide evidence they were issued a residence card in May 2012 which is valid until May 2017 on the basis they are the relative of the spouse of an EEA national. They provide evidence that they remain dependent on the spouse, and that they continue to meet all other requirements of the regulations. In these circumstances, you can issue a permanent residence card.

## Definition of relative

The term ‘relative’ includes:

- brothers
- sisters
- aunts
- uncles
- cousins
- nieces
- nephews

This list is not complete. You can also include those related by marriage to the EEA national and further generations of the above relatives such as great-aunts, great-nephews and second cousins. Since 11 February 2016 an applicant related by marriage to the spouse of an EEA national who has not previously been issued with documentation under the regulations is not considered an extended family member.

## Rights of an extended family member

Extended family members do not have automatic rights to enter and reside in the UK. Under regulation 7(3) of the 2016 regulations, an extended family member has the same rights as a direct family member. They must continue to satisfy the conditions of regulation 8 and have been issued with one of the following documents which remains in force:

- an EEA family permit
- a registration certificate
- a residence card
- a permanent residence card
- a document certifying permanent residence

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### Related external links

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

# Extended family members: considering an application

This section tells you how to consider an application from an extended family member of a European Economic Area (EEA) national for a document confirming their right of residence.

The application process is normally done in 4 stages; unless the applicant has a valid EEA family permit.

## Entering with an EEA family permit

Under regulation 7(3) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations), a person who enters the UK with an EEA family permit issued as an extended family member, only has a right to reside in the UK on this basis while the EEA family permit is valid (6 months).

If that person submits an application for a residence card or registration certificate before the EEA family permit expires, you do not need to undertake stages 2 to 4 of the 4 stage consideration process. However, you will need to undertake stages 2 to 4 of the consideration process where information has come to light which casts doubt on the validity of the EEA family permit, or you need to assess whether the extended family member remains dependent upon the EEA national since arriving in the UK. If the EEA family permit has expired at the point of application you must apply the full 4 stage process.

For more information on each stage of the process, see:

[Stage 1: status of EEA sponsor](#)

[Stage 2: relationship to EEA national](#)

[Stage 3: qualifying conditions](#)

[Stage 4: extensive examination of personal circumstances](#)

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## Related external links

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

# Stage 1: status of EEA sponsor

This page tells you how to consider stage one of the process for an extended family member of a European Economic Area (EEA) national application.

You must assess whether the sponsor is an EEA national and meets one of the following:

- is a qualified person
- has a right of permanent residence

This is in line with regulation 17(5)(b) and 18(4)(b) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations).

## Qualified person or permanent residence

EEA nationals who reside in the UK for more than 3 months must be exercising free movement rights. In doing so, they are classed as a qualified person. After 5 years continuous residence in the UK in accordance with the regulations, an EEA national will acquire permanent residence.

For information on assessing whether an EEA national is a qualified person, see: European Economic Area nationals: qualified persons.

For information on the right of permanent residence, see: European Economic Area (EEA) and Swiss nationals: free movement rights.

## Proof of identity

As evidence of identity and nationality, the applicant must provide either a valid:

- passport
- EEA national identity card (if they are themselves an EEA national)

In addition, the passport or EEA national identity card of the EEA national sponsor must also be provided.

## No valid proof of identity provided

In line with regulation 42 of the 2016 regulations, you can accept alternative evidence of identity if a person cannot provide a valid passport or identity card due to circumstances beyond their control.

## Appeal rights

For information on appeal rights, see: Rights of appeal.

**Related content**

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

# Stage 2: relationship to EEA national

This page tells you how to consider stage 2 of the process for an extended family member of a European Economic Area (EEA) national application.

You must consider stage one of the process before moving on to stage 2. For more information, see: [Stage 1: Status of EEA sponsor](#).

You must assess whether the applicant is related to, or in a durable relationship with, the EEA national sponsor.

## Evidence required for relatives

The number of documents the applicant must provide depends on the distance of the relationship between them and their EEA national sponsor. They must provide documents to show the connection between each relative. For example, an applicant who is the aunt of an EEA national (the sister of the EEA national's mother), could provide:

- their own birth certificate
- their sister's birth certificate
- the EEA national's birth certificate

This would show that the applicant and her sister have the same parents, and her sister is the EEA national's mother.

If the applicant is the sister in law of the EEA national's mother, instead of her own birth certificate, she could provide her:

- own marriage certificate
- husband's birth certificate

You must make sure that any marriages or civil partnerships that link the applicant to the EEA national sponsor are legally valid before moving to [stage 3](#). For information on how to check if a marriage is valid, see: Direct family members of European Economic Area (EEA) nationals.

## Evidence required for durable partners

A durable relationship is an unmarried partnership which has normally continued for 2 years or more. The evidence the applicant can provide may include:

- proof that any previous relationship has permanently broken down, for example a:
  - decree absolute for marriages
  - dissolution order for civil partnerships
- evidence of cohabitation for 2 years, for example:
  - bank statements or utility bills in joint names at the same address

- rent agreements
  - mortgage payments
  - official correspondence which links them at the same address
- evidence of joint finances, joint business ventures and joint commitments, for example:
  - tax returns
  - business contracts
  - investments
- evidence of joint responsibility for children such as:
  - a birth certificate or custody agreement showing they are cohabiting and sharing responsibility for children
- photographs of the couple
- other evidence demonstrating their commitment and relationship

You must always consider the individual circumstances of the application. For example there may be instances when the couple have not been in a relationship for 2 years or more, but you are still satisfied that the relationship is subsisting and durable. This may be, for example, where the couple have a child together and a birth certificate showing shared parentage has been provided with evidence of living together.

You must refer to a senior caseworker if you doubt whether the level of evidence provided is enough to demonstrate a durable relationship exists. If the applicant has provided enough evidence and you are satisfied that the documents are genuine, you must consider whether the requirements of regulation 8 (extended family member) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) have been met before you go to [stage 3](#).

## Refusal

If you are not satisfied the applicant is related to an EEA national, you must refuse the application in line with regulation 8(2), (3) or (4) as appropriate. If you are not satisfied the applicant is in a durable relationship with the EEA national, you must refuse in line with regulation 8(5).

## Appeal rights for relatives and durable partners

For information on appeal rights, see: Rights of appeal

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

# Stage 3: qualifying conditions

This page tells you how to consider stage 3 of the process for an extended family member of a European Economic Area (EEA) national application.

You must consider [stage 1](#) and [stage 2](#) of this process before moving on to stage 3.

This stage of the process is to decide whether the extended family member meets the conditions of regulation 8(2), 8(3), 8(4) or 8(5) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations).

The following sets out a summary of each part of regulation 8 for extended family members that are considered in the 4 stage process. It includes the requirements and what evidence the applicant must present to satisfy them.

For [regulation 8\(2\)](#) the person must be:

- the relative of the EEA national
- residing in a country other than the UK
- dependent upon the EEA national or a member of their household
- accompanying or joining the EEA national in the UK, or has joined the EEA national in the UK and continues to be dependent upon them or a member of their household

They must submit either:

- financial evidence of dependency, such as:
  - bank statements
  - money transfers between the EEA national and the extended family member whilst that extended family member was outside the UK
- evidence of membership of EEA national's household, such as:
  - utility bills
  - tenancy or mortgage agreement
  - other evidence of cohabitation

For [regulation 8\(3\)](#) the person must be the relative of an EEA national and on serious health grounds, strictly requiring the personal care of the EEA national.

They must submit the following evidence:

- a detailed medical report from a GP, specialist or consultant showing their medical condition and the type of care they require
- a letter from the EEA national who provides their care that explains in detail the level of care they give

For [regulation 8\(4\)](#) the person must be the relative of the EEA national and would meet the requirements of the Immigration Rules for indefinite leave to remain (ILR)

as a dependent relative of the EEA national. The EEA national is present and settled in the UK.

For more information, see section 6.0 of Appendix FM

For [regulation 8\(5\)](#) the person must be the partner of an EEA national (other than a civil partner) and can prove that they are in a durable relationship with that EEA national.

Evidence must normally cover a 2 year period and can include, but is not restricted to:

- joint bank or building society statements
- joint tenancy agreements
- council tax bills
- utility bills in joint names

If there is less than 2 years evidence, you can still accept this where there is evidence the relationship is durable. For example there is a joint responsibility for a child of that relationship.

## Refusal

If you are not satisfied the extended family member meets the conditions of regulation 8, you must refuse the application on this basis.

## Appeal rights

For information on appeal rights, see: Rights of appeal

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### Related external links

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

# Dependency or membership of household: regulation 8(2)

This page tells you about the requirements of regulation 8(2) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) for extended family members of European Economic Area (EEA) nationals.

## Requirements

To meet the requirements of regulation 8(2), the extended family member must have been living in a country other than the UK and be dependent upon the EEA national or have been a member of their household and either:

- is accompanying the EEA national or wishes to join them in the UK
- has joined the EEA national in the UK and continues to be dependent upon them or a member of their household

## Dependency or membership of household outside UK

The extended family member must demonstrate they were either:

- dependent on the EEA national in a country other than the UK
- a member of the EEA national's household in a country other than the UK

Following the ruling from the Court of Justice of the European Union (CJEU) in the case of Rahman you can consider the extended family member to be dependent even though they may not have lived in the same country as the EEA national. For example, the EEA national has provided financial support to the extended family member while they lived in another country. The financial support they received shows dependency.

The applicant does not need to be dependent on the EEA national to meet all or most of their essential needs. For example, an applicant is considered dependent if they received a pension which covers half of their essential needs and money from their EEA national sponsor which covers the other half.

If the applicant is claiming a right of residence on the basis that they were a member of the EEA national's household, then they must have been living with the EEA national in that household in the same country.

## Continuing dependency or member of EEA national's household in the UK

Regulation 8(2)(a)(ii) of the 2016 regulations states a person only continues to satisfy the requirements of regulation 8 if they remain dependent upon the EEA national or a member of their household.

## Evidence of dependency

Proof of dependency may include periods of financial dependency that:

- existed before the applicant came to the UK
- continues now the applicant lives in the UK

Evidence of this dependency can include:

- bank statements
- money transfers

## Evidence of membership of household

Evidence of this may include:

- joint tenancy agreements
- a letter from the local council
- utility bills
- joint bank or building society statements
- official correspondence addressed to them at the household

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

# Health grounds and ILR requirements: regulations 8(3) and 8(4)

This page tells you about the requirements of regulations 8(3) and 8(4) of the the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) relating to extended family members of European Economic Area (EEA) nationals.

## Regulation 8(3): relatives requiring personal care on serious health grounds

A relative satisfies the definition of an extended family member if they are the relative of an EEA national, and strictly require the personal care of the EEA national on serious health grounds.

The Asylum and Immigration Tribunal (AIT) in the case '[TR \(reg 8 \(3\) EEA Regs 2006\) \[2008\] UKAIT 00004](#)' found that for a relative to satisfy regulation 8(3) they must meet the following conditions:

- the 'serious health grounds' need to be significantly beyond ordinary ill health:
  - the applicant must provide detailed medical evidence to prove this
- 'personal care' must be provided on a day to day basis and relate to the physical or mental tasks and needs the applicant requires to function
- 'strictly' must be restrictively interpreted to emphasise the need for the personal care to be provided on a day to day basis

## Medical report

An applicant must submit a detailed medical report showing their medical condition and the type of personal care they need.

The evidence provided must demonstrate the level of care needed is possible. For example, if they claim that daily care is provided but the relevant EEA national's home is a long distance away from the applicant, they need evidence to show how they can provide the care despite the distance.

## Regulation 8(4): relatives meeting Immigration Rules for indefinite leave to remain (ILR) as the dependent relative of a person present and settled in the UK

The applicant does not need to have valid entry clearance to enter the UK to satisfy this condition. You must refer to section 6.0 of Appendix FM for further information.

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

# Durable partners: regulation 8(5)

This page tells you about the requirements of regulation 8(5) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) relating to extended family members of European Economic Area (EEA) nationals.

If an applicant wishes to apply as the durable (unmarried) partner of an EEA national sponsor, they must satisfy the following requirements:

- the applicant and the EEA national sponsor have been living together in a relationship similar to marriage which has continued for at least 2 years:
  - you must always consider the individual circumstances of the application
  - the couple may have been in a relationship for less than 2 years but they have a child together
  - you can use your discretion if there is enough evidence, for example, if they provided a birth certificate showing shared parentage with evidence of living together
- the applicant and the EEA national sponsor:
  - intend to live together permanently
- are not involved in a ‘consanguineous’ relationship with one another (they are not blood relatives)
- any previous marriage or similar relationship by either party has permanently broken down

The 2016 regulations now make it clear that durable partners do not include parties to durable partnerships of convenience as defined in regulation 2.

## Termination of durable partnership

A durable partner continues to have a right to reside as a durable partner for as long as:

- they remain in that relationship with the EEA national
- their EEA family permit, residence card or registration certificate remains valid

If the relationship is terminated at any point during the 5 years before permanent residence, then the durable partner no longer has a right of residence.

Durable partners cannot keep a right of residence under regulation 10 on the basis that the relationship has broken down, whether this is due to domestic violence or otherwise. This is because regulation 10(5) only makes provisions for a family member to retain a right on termination of a marriage or civil partnership. As a durable partner is not in either a marriage or a civil partnership, regulation 10 does not apply. This reflects article 13 of [Directive 2004/38/EC](#).

For more information on retained rights, see guidance on family members of EEA nationals who have retained the right of residence.

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

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

# Stage 4: extensive examination of personal circumstances

This page tells you how to consider stage 4 of the process for an extended family member of a European Economic Area (EEA) national application. You must consider [stage 1](#), [stage 2](#) and [stage 3](#) of this process before moving on to stage 4.

## The effect the decision has on the EEA national exercising their free movement right

Before you make your decision, you must consider:

- whether the EEA national will be deterred from exercising their free movement rights if you refuse the extended family member application
- the facts and circumstances of the relationship and dependency for each case

For example, an extended family member is financially dependent on the EEA national through monthly money transfers, but they have not seen each other for years. In this example, the EEA national would not be deterred from exercising their free movement rights in the UK if the application was refused. This is because the financial dependency can continue even though the EEA national is in the UK and the applicant remains outside the UK.

In a case where the applicant meets the definition of a durable partner, it is likely that to refuse a residence card would deter the relevant EEA national's free movement rights. This is because it has been accepted the parties are in a long-standing and enduring relationship akin to marriage. You must however still consider all of the circumstances of the case before making a final decision on this.

## Conducive to the public good

Extended family members do not benefit from the protections in relation to EEA decisions taken on grounds of public policy, public security or public health until they have been issued a document under the regulations. You must consider any criminal activity against whether the person's presence is conducive to the public good until they are issued with a document.

If a document has previously been issued, then consideration must be given to whether there are reasons to refuse a further document, or to revoke a document, on the grounds of public policy, public security or public health. For further information, see: EEA decisions on grounds of public policy and public security.

You must refuse the application if refusal is justified on public policy, public security or public health grounds.

## **Evidence of criminality**

You must consider a criminal record, either in the UK, another country or both. This may be from a Police National Computer (PNC) check or information the applicant provides on the relevant EEA application form.

You must consider any criminality in line with the Immigration Rules and not the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations).

This is because the regulations do not apply to a person seeking rights as an extended family member of an EEA national, until that person has been issued with a residence document. You must consider the following sections under the Immigration Rules as part of your assessment:

- paragraph 320(2) – when an applicant is seeking an EEA family permit, residence card, or registration certificate at port or after-entry - if this paragraph applies you should refuse the application, unless:
  - refusal would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees
  - in exceptional circumstances, the public interest in maintaining refusal is outweighed by compelling factors
- paragraph 320(6), where the Secretary of State has personally directed that the exclusion of a person from the UK is conducive to the public good

For full details see: Paragraph 320 of the Immigration Rules and [General grounds for refusal](#).

## **Adverse immigration history**

You must not refuse an application simply because the applicant has an adverse immigration history.

You must look at each case on a case by case basis. You must consider all the facts and circumstances including the level and type of abuse or fraud. For example, you would consider obtaining leave by deception or making a false representation in a different way to an overstayer.

## **Any other reasons**

You must consider if there are any reasons why it is not in the interests of the public good to issue the applicant with a registration certificate or a residence card. Even if you are going to refuse on criminality or adverse immigration history, you must consider all the other facts and circumstances of the case before making a final decision.

The facts and circumstances to consider include the level of:

- integration of the applicant into the UK, for example:
  - the length of residency
  - family ties in the UK

- whether they are working in the UK
  - whether they own property in the UK
- integration of the EEA sponsor into the UK, for example:
  - you must consider how a refusal might affect the EEA sponsor from exercising their free movement rights
- family and private life, for example, in relation to durable partners, you must consider:
  - the length of the relationship
  - if there are any children

## Refusal

If you decide not to issue a document and not to apply any discretion in line with regulation 12(4), 17(5) or 18(4) of the 2016 regulations, you must refuse the application under one of the following 2016 regulations:

- 12(4)(c) - if applying for an EEA family permit
- 17(5)(c) - if applying for a registration certificate
- 18(4)(c) - if applying for a residence card

## Appeal rights

Where a decision is taken to refuse an extended family member an EEA family permit, a residence card or a registration certificate before 29 March 2019, there will be no right of appeal against these decisions. This is in line with pre-March 2019 version of regulation 2 of the 2016 regulations, which defines an 'EEA decision' for the purposes of the regulations.

From 29 March 2019, extended family members applying for a family permit, residence card or registration certificate may be eligible for a right of appeal against the refusal of such a document, if they meet the criteria of regulation 36(4) of the 2016 regulations.

For information on appeal rights, see: [Rights of appeal](#)

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

# Switching to extended family member of another qualified EEA national

This section tells you what to do if an extended family member wants to switch to become an extended family member of another qualified European Economic Area (EEA) national.

When an extended family member is issued a document to confirm their right of residence it only confirms that they have been accepted as the extended family member of that particular EEA national sponsor. This is in line with regulation 7(3) of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations).

If their circumstances change and they no longer meet the conditions of regulation 8 (extended family member) in relation to that particular EEA national sponsor, their document is no longer valid.

If this happens the applicant must re-apply for a registration certificate or a residence card and show they can meet the conditions of regulation 8 in relation to another relevant EEA national.

## Example 1

### Change of circumstance

A nephew of an EEA national worker was accepted as being a member of his uncle's household in the UK. Shortly after his girlfriend, who is also an EEA national, moves in with him and his uncle and remains living with him for 2 years. His uncle decides to leave the UK and return to Germany to live permanently.

### Required action

When his uncle leaves the UK, the nephew no longer meets the conditions of regulation 8(2) as a member of that EEA national's household. He must re-apply as the durable partner of an EEA national under regulation 8(5).

Under regulation 7(3), the extended family member of an EEA national who has been issued a registration certificate, residence card or EEA family permit can be treated as if they were the family member of the relevant EEA national providing the documents remain valid and the applicant meets the extended family member criteria in regulation 8. This is the case even where the registration certificate, residence document or EEA family permit was not issued on the basis of the holder being an extended family member.

If the applicant has been issued a residence card, registration certificate, or EEA family permit and they are now switching into the extended family member category, you do not have to consider whether it is appropriate to issue in all circumstances unless the EEA national sponsor is exercising free movement rights as a student.

## Example 2

### Change of circumstance

A Nigerian national is issued a residence card on the basis that his French father is exercising treaty rights as a worker. Circumstances change and the Nigerian becomes a dependent relative of his wealthy Portuguese uncle who is a resident in the UK as a self sufficient person.

### Required action

You are satisfied the Nigerian meets the dependent relative requirements of regulation 8 and that any refusal would prevent the EEA national sponsor from exercising their treaty rights here. You do not need to also consider whether it is appropriate to issue the residence card in all circumstances under regulation 18(4). You must issue the residence card.

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# Permanent rights of residence: qualifying conditions

This section tells you how to consider if an extended family member of a European Economic Area (EEA) national can live in the UK on a permanent basis.

In line with regulation 15 of the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations), an extended family member of an EEA national sponsor is allowed to live in the UK on a permanent basis if they have:

- lived in the UK for a continuous period of 5 years (unless they fall within regulation 15(d) or 15(e))
- lived in line with regulation 8 (extended family member) during that period

## Residence in line with the regulations

The applicant must be able to show they have met the conditions of regulation 8 (extended family member) for 5 continuous years. For example, an applicant who was issued a residence card as an extended family member on the basis that they were a member of the EEA national's household, must show evidence of cohabitation with that EEA national of the 5 year qualifying period for permanent residence.

There may be circumstances where the 5 year qualifying period is made up of residency as an extended family member and a family member. For example, they entered the UK as a durable partner of an EEA national and then later married that EEA national. This is acceptable provided that the total 5 year period in question is continuous and that any time spent as a durable partner is only counted where the person held an EEA family permit, residence card or registration certificate issued to them in that capacity. The applicant must provide the required documents, or they will not be able to count that period towards the 5 year qualifying criteria.

For further information see: EEA nationals: qualified persons.

## Applying for permanent residence

Under regulation 8 of the regulations you cannot consider an applicant to be the extended family member of an EEA national until they have been issued with one of the following:

- an EEA family permit
- a registration certificate
- a residence card

An extended family member is not eligible for a document certifying permanent residence or a permanent resident card if they do not hold a residence card or registration certificate.

After 5 years continuous residence in line with the regulations an extended family member can apply for either a:

- document certifying permanent residence (if they are an EEA national)
- permanent residence card (if they are a non-EEA national)

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# Permanent rights of residence: summary of evidence and requirements

This page gives you a summary of the requirements under regulation 8 of the 2016 regulations for extended family members of a European Economic Area (EEA) national to acquire a right of permanent residence.

The following information sets out a summary of each regulation in the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations) for extended family members, the requirements and what evidence they must provide to satisfy those requirements.

## Regulation 8(2)

The person must be:

- a relative of the EEA national
- residing in a country other than the UK
- dependent upon the EEA national or a member of their household
- accompanying or joining the EEA national in the UK, or has joined the EEA national in the UK and continues to be dependent upon them

They must provide the following evidence:

- of 5 years continuous residence on the UK, for example:
  - bank statements
  - mortgage statements
  - council tax bills
- that the EEA national is a qualified person or has permanent residence
- of continuing financial dependency on the EEA national, for example:
  - bank statements
- proof that they continue to reside with the EEA national, if the person is applying as a member of the EEA's household, for example:
  - evidence of cohabitation

## Regulation 8(3)

The person must be the relative of an EEA national and on serious health grounds strictly requires the personal care of the EEA national.

They must provide a letter from the EEA national who has been providing their care, confirming this care is ongoing.

## **Regulation 8(4)**

The person is a relative of the EEA national and would meet the requirements of the Immigration Rules for indefinite leave to remain (ILR) as a dependent relative of the EEA national were the EEA national present and settled in the UK. For more information see: Appendix FM.

## **Regulation 8(5)**

The person must be the partner of an EEA national (other than a civil partner) and can prove that they are in a durable relationship with that EEA national.

They must provide:

- joint bank or building society statements
- joint tenancy agreements
- council tax bills
- utility bills in joint names

This evidence must cover the relevant 5 year qualifying period.

## **Refusal**

You must refuse the application in line with regulation 15(1)(b) if the applicant has not proven that they have met the conditions of regulation 8 continuously for 5 years.

## **Right of appeal**

Regulation 36 of the regulations gives a right of appeal against a refusal of permanent residence on this basis.

For information on appeal rights, see: Rights of appeal

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# Permanent rights of residence example case

This page gives you an example case of how to apply the permanent right of residence test for an extended family member of a European Economic Area (EEA) national.

Mr B, a Greek national, was issued a registration certificate in January 2004 as a worker. In January 2009 he applied for a document certifying permanent residence and provided information confirming that:

- he exercised treaty rights as a worker until 2007, when he left his employment
- he did not exercise any treaty rights from February 2007
- in May 2008 he became the unmarried partner of a French national and applied to the Home Office for a registration certificate as an extended family member which was issued in July 2008

## Consideration and outcome

You must consider whether Mr B has resided in the UK for 5 continuous years in line with the [Immigration \(European Economic Area\) Regulations 2016](#) (the 2016 regulations). You must refuse the application because there has been a significant break in his qualifying residence between February 2007 and July 2008. During this time he had not exercised his treaty rights or been confirmed as an extended family member.

Because of this break of residency he has not met the 5 year qualifying criteria.

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