



Home Office

Free Movement Rights: retained rights of residence

Version 5.0

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

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About this guidance

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

Throughout this guidance document, any reference to the '2016 regulations' includes both the Immigration (European Economic Area) Regulations 2016 and all subsequent amendments up to and including the Immigration (European Economic Area) (Amendment) Regulations 2019.

Swiss nationals

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

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

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email European Migration & Citizens' Rights Unit.

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 **5.0**
- published for Home Office staff on **24 February 2020**

Changes from last version of this guidance

This guidance document has been updated to reflect the changes introduced through the Immigration (European Economic Area) (Amendment) Regulations 2019. In particular, guidance is provided on 'initiation of termination proceedings' following the judgment of the Court of Appeal in Baigazieva, implemented within regulation 10(5)(a).

Related content

[Contents](#)

Related external links

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

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

[Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#)

EU Settlement Scheme

After the UK leaves the European Union (EU), EU free movement will be brought to an end and all documentation issued to European Economic Area (EEA) and Swiss citizens, and their family members, under EU law will cease to be valid. After free movement is brought to an end, EEA and Swiss citizens and their family members will require UK immigration status in order to remain in the UK.

The EU Settlement Scheme provides a basis, consistent with the Withdrawal Agreement with the EU published on 19 October 2019 and with the citizens' rights agreements reached with the other European Economic Area (EEA) countries and Switzerland, for EEA and Swiss citizens continuously resident in the UK and their family members to apply for the UK immigration status which they will require in order to remain here beyond the end of the transition period on 31 December 2020.

EEA and Swiss citizens and their family members may therefore choose to apply to the EU Settlement Scheme instead of applying for documentation under EU law.

For further information please see: [EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members.](#)

Related content

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Related external links

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

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

[Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#)

[EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members guidance](#)

Retained rights of residence

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

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

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

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

Regulation 10

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

- the EEA national either:
 - [dies](#)
 - ceases to reside in the UK
 - [divorces their spouse or dissolves their civil partnership](#)
- the family member is:
 - the parent with custody of a child of the EEA national where that child retains the right of residence
 - the former spouse or civil partner of an EEA national and has custody of a child of the EEA national
 - the former spouse or civil partner of an EEA national and has the right of access to the child (under the age of 18) of the EEA national which must take place in the UK
 - the family member of someone who has retained the right to reside in one of the ways specified in regulation 10

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

Residence cards

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

Change of circumstances before 30 April 2006

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

Retained rights and sponsoring other non-EEA nationals

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

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

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

[Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#)

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

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

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

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

Requirements of regulation 10(2)

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

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

Evidence required

The applicant must provide the following to prove they meet the requirements of regulation 10(2):

- their valid EEA national identity (ID) card or passport issued by an EEA state if they are an EEA national, or their valid passport if they are a non-EEA national
- the valid EEA national ID card or passport issued by an EEA state of their EEA national sponsor
- evidence of their relationship to the EEA national (such as a marriage certificate)
- the EEA national's death certificate
- evidence the EEA national was exercising free movement rights at the time of their death, or had permanent residence
- proof of residence in the UK as the family member of the EEA national for at least one year immediately before the EEA national's death

- proof that they are a worker, self-employed person or self-sufficient person or the family member of such a person(see: [Requirements under regulation 10\(6\)](#))

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

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

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

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[Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#)

Direct descendants: regulation 10(3)

This page tells you how the direct descendants of European Economic Area (EEA) nationals, or of their spouse or civil partner, can retain the right of residence in the UK.

Direct descendants

Direct descendants include:

- children
- grandchildren
- great-grandchildren

Requirements of regulation 10(3)

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

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

See the guidance on qualified persons for more information.

Evidence required

- evidence of their nationality and identity either through a:
 - valid EEA national ID card or passport issued by an EEA state if they are an EEA national, or
 - valid passport if they are a non-EEA national
- evidence of their relationship to the EEA national, for example, a birth certificate
- evidence they were attending an educational course in the UK immediately before the EEA national died or ceased to reside in the UK, for example, a letter of enrolment
- evidence they continue to attend an educational course in the UK, for example, a letters of enrolment

In addition, further evidence must be provided depending on the basis in which the retained right is being claimed.

EEA national has died

If the EEA national has died the applicant must provide in addition to the above:

- a validly issued EEA national ID card or passport issued by an EEA state for the EEA national
- the EEA national's death certificate
- evidence the EEA national was a qualified person in accordance with the regulations at the time of their death, or had permanent residence
- evidence that they resided in the UK in accordance with the regulations for at least one year immediately before the death of the EEA national

EEA national ceases to reside in the UK

If the EEA national ceases to reside in the UK the applicant must provide:

- a valid EEA national ID card or passport issued by an EEA state for the EEA national
- evidence that the EEA national has ceased to reside in the UK
- evidence that the EEA national was a qualified person or had a right of permanent residence before they ceased to reside in the UK

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

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

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

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Parent of a child: regulation 10(4)

This page tells you how the parent with custody of a child, who satisfies the conditions of regulation 10(3), of a European Economic Area (EEA) national can retain the right of residence in the UK.

Requirements of regulation 10(4)

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

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

Evidence required

- Evidence that the child satisfies the requirements of regulation 10(3)
- Court order or similar confirming the parent has custody of the above child

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

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

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

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

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

Marriage or civil partnership: non-official separation

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

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

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

Marriage or civil partnership: initiation of termination proceedings

Under regulation 10(5), an applicant may be eligible to retain a right of residence if they can demonstrate they have initiated proceedings for termination of their marriage or civil partnership with a qualified person, or an EEA national with a right of permanent residence.

Once the applicant has initiated the proceedings to terminate the marriage or civil partnership, the non-EEA spouse or civil partner must meet the individual requirements of regulation 10(5) in order to retain a right of residence in the UK.

Initiation of the proceedings to terminate a marriage or civil partnership means the point at which one of the parties makes an official request for the court to consider that termination. The date this can be considered to have taken place depends on what evidence is provided by the applicant. Acceptable evidence can include:

- confirmation from the court that a valid application for a divorce or dissolution has been received, this might be in the form of a stamped or sealed receipt
- a decree nisi (for marriages and annulments)

- a conditional order (for civil partnerships)

These documents confirm that the court sees no reason why the divorce, annulment, or dissolution should not commence.

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

Requirements of regulation 10(5)

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

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

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

This page tells you about paragraph 10(5)(d) of the 2016 regulations.

Regulation 10(5)(d)(i)

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

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

Regulation 10(5)(d)(ii)

To meet the conditions of regulation 10(5)(d)(ii) the applicant must have custody of the child of the EEA national former spouse or civil partner.

Regulation 10(5)(d)(iii)

To meet the conditions of regulation 10(5)(d)(iii):

- the applicant must have the right of access to the child of the EEA national former spouse or civil partner
- the child must be under the age of 18
- a court must have ordered that such access takes place in the UK

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

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

Regulation 10(5)(d)(iv)

To meet the conditions of regulation 10(5)(d)(iv) the applicant's continued right of residence in the UK must be warranted by particularly difficult circumstances. This can include, but is not limited to, when the applicant or another family member has been a victim of domestic violence whilst the marriage or civil partnership was subsisting.

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

End of relationship with EEA national sponsor – evidence required

For all applications for documentation relying on regulation 10(5), the applicant must provide evidence:

- of their identity and nationality through a:
 - valid EEA national ID card or passport issued by an EEA state if they are an EEA national
 - valid passport if they are a non-EEA national
- of the identity and nationality of the EEA national sponsor, which must be a validly issued EEA national identity card or passport issued by an EEA state
- that the EEA national was a qualified person or had a right of permanent residence at the time of initiation of proceedings for the termination of the marriage or civil partnership
- of the initiation of proceedings for termination of their marriage or civil partnership with the EEA national, such as:
 - confirmation from the court that a valid application for a divorce or dissolution has been received
 - a decree nisi (marriage or annulment)
 - a conditional order (civil partnership)
- that they were residing in the UK in accordance with the regulations at the date of the initiation of proceedings for terminating of the relationship
- that they are a worker, self-employed person or self-sufficient person or the family member of such a person

In addition, further evidence must be provided depending on the basis on which the retained right is being claimed.

Married for 3 years or more – regulation 10(5)(d)(i)

The applicant must provide evidence that:

- the marriage or civil partnership lasted for at least 3 years immediately before the initiation of proceedings for divorce, annulment or dissolution, for example a marriage or civil partnership certificate
- they resided in the UK for at least one year during the marriage

Custody of a child – regulation 10(5)(d)(ii)

The applicant must provide evidence that:

- they have custody of the child of the EEA national, for example a custody order

Access to the child of the EEA national – regulation 10(5)(d)(iii)

The applicant must provide evidence that:

- they have a right of access to the child, under the age of 18, of the EEA national, for example a court order
- a court has ordered that the access must take place in the UK

Difficult circumstances – regulation 10(5)(d)(iv)

Applicants who raise domestic violence or other difficult circumstances as a reason for the end of their relationship do not need to show evidence that the marriage or civil partnership lasted for 3 years or that the parties had resided together in the UK for at least one year during its duration.

They must provide details of the difficult circumstances which occurred whilst the marriage or civil partnership was subsisting.

The 2016 regulations only provide for a retained right of residence to former spouses and civil partners. There is no basis for durable partners, or other extended family members, to retain a right of residence for reasons of domestic violence.

Delaying your decision for court hearings

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

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

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

Other acceptable proof of domestic violence

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

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

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Applicants who are unable to provide all the evidence of their EEA sponsor

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

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

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

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

No evidence of EEA sponsor

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

An example of this could be where the applicant was the victim of domestic violence and cannot provide evidence relating to their EEA national sponsor's nationality or free movement rights (to ask them to do so could put them at risk).

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

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

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

Applications for registration certificates or residence cards

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

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

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

Official - sensitive: start of section

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

Official - sensitive: end of section

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

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

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

Applications for documents certifying permanent residence or permanent residence cards

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

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

Public policy, security and health

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

- public policy
- public security
- public health

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

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Regulation 10(6)

This page tells you about regulation 10(6) of the 2016 regulations.

Requirements of regulation 10(6)

To be eligible to retain a right of residence under regulations 10(6), the non-EEA national must be either a:

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

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

Students and jobseekers

A non-EEA national who is solely a student or a jobseeker does not meet these conditions.

If the non-EEA national meets the conditions of regulation 10 but later becomes a student or jobseeker without continuing to satisfy the requirements of being a worker, self-employed person, or self-sufficient person, they will no longer have retained a right of residence.

Evidence required

The applicant must provide evidence of being a:

Worker

Evidence of this may include:

- payslips dated no more than 6 weeks before the application was made
- a letter from the employer confirming employment
- a contract of employment

Self-employed person

Evidence of self-employment may include:

- proof of registration for tax and national insurance (NI) purposes with HMRC for example:
 - letter of self-employed status
 - letter confirming payment of tax and NI contributions

- invoices for work done
- a copy of their business accounts
- an accountant's letter
- leases on business premises (if applicable)
- advertisements for their business
- business bank statements

Self-sufficient person

A self-sufficient person must be able to provide proof that they have:

- enough money to cover their own and any family member's living expenses without becoming a burden on the social assistance system in the UK
- comprehensive sickness insurance (CSI) in the UK for themselves and any family members

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

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

Domestic violence cases

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

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

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

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

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

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

- a child applying under regulation 10(3) will finish their education.
- the child of a parent applying under regulation 10(4) will finish their education or reach the age of 21
- the child of a parent applying under regulation 10(5)(d)(iii) will reach the age of 18

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

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

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

Refusals

You must refuse the application if the applicant:

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

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

Appeal rights

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

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

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

Requirements of regulation 15 of the 2016 regulations

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

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

You must make sure that they:

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

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

It is not necessary for the applicant to show that, following initiation of proceedings for termination of the relationship, the EEA national has continued to be a qualified person.

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

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

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

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

- document certifying permanent residence to EEA nationals
- permanent residence card to non-EEA nationals

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

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

Refusals

You must refuse the application if the applicant:

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

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

Appeal rights

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

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Decision making: revoking an existing registration certificate or residence card

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

Regulation 24(3)

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

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

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

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

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

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

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

See the guidance on qualified persons for more information.

Appeal rights

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

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

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