



Home Office

European Economic Area nationals: qualified persons

Version 8.0

This guidance applies and interprets the Immigration (European Economic Area) Regulations 2016 (as amended). 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 the important facts for a European Economic Area (EEA) national who is a qualified person under the Immigration (European Economic Area) Regulations 2016 (as amended) ('the Regulations').

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.

Eligibility requirements

To benefit from free movement rights and have a right of residence in the UK for longer than 3 months, an EEA national must show both of the following:

- evidence of identity and nationality of an EEA member state
- evidence they are exercising a free movement right in the UK

Application forms

Applicants should complete one of the following application forms:

- EEA(QP) - application for a registration certificate as a qualified person
- EEA(PR) - application for a document certifying permanent residence

Forms can be submitted either in hard copy or by using the online versions.

Cost of application

It costs £65 for each person included in an application.

Residence documents

The right of residence for an EEA or Swiss national and their direct family members does not depend on them holding a document issued under the regulations.

These documents only confirm a right of residence as a qualified person or as a family member at the time the document is issued.

Validity of documents

Registration certificates and documents certifying permanent residence issued to EEA nationals have no expiry date.

Dependants

Under the regulations, EEA nationals can be joined or accompanied by their direct family members if the conditions of regulation 7 are met or extended family members if the conditions of regulation 8 are met.

Switching

EEA nationals can change the basis of their stay as long as they continue to exercise their free movement rights in the UK. For example, a student can switch to become a worker and count both periods of leave towards acquiring permanent residence providing the relevant conditions are met.

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 European Migration and 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 **8.0**
- published for Home Office staff on **22 October 2020**

Changes from last version of this guidance

This guidance document has been updated to reflect the changes introduced by the Upper Tribunal determination in [KH v Bury Metropolitan Borough Council and Secretary of State for Work and Pensions \(HB\): \[2020\] UKUT 50 \(AAC\)](#) which removed the requirement for EEA nationals, who have previously worked in the UK, and who subsequently become unemployed or cease activity, to provide evidence of a genuine chance of being employed in order to be recognised as a qualified person.

Related content

[Contents](#)

Related external links

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

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

EU Settlement Scheme

The UK has now left the EU and EU free movement will be brought to an end. After this happens, all documentation issued to European Economic Area (EEA) and Swiss citizens and their family members under EU law will cease to confirm a right of residence in the UK and EEA and Swiss citizens and their family members will require a 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 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

[Contents](#)

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](#)

Qualified persons

This page tells you which European Economic Area (EEA) nationals are defined as a qualified person under the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations').

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.

Qualified person

A qualified person is defined in regulation 6 of the regulations as an EEA national that is living in the UK as a:

- job seeker – regulation 6(1)(a)
- worker – regulation 6(1)(b)
- self-employed person – regulation 6(1)(c)
- self-sufficient person – regulation 6(1)(d)
- student – regulation 6(1)(e)

An EEA national can change the basis of their stay in the UK. For example, if they enter the UK as a jobseeker, then take employment and become a worker. In such cases, the EEA national can count both periods towards the 5 year qualifying period for permanent residence.

Qualified persons do not need to apply for a document confirming a right of residence in the UK. If they wish to do so they may apply for a registration certificate.

For more information on applications for a registration certificate, see guidance on Processes and procedures: applications for a registration certificate.

For more information on permanent residence, see [Rights of permanent residence for qualified persons](#).

Related content

[Contents](#)

Related external links

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

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

Jobseekers

This page tells you how to assess if a European Economic Area (EEA) national is a qualified person in the jobseeker category under the Immigration (European Economic Area) Regulations 2016 (as amended).

Since 1 July 2018, the work authorisation requirement for Croatian nationals has been lifted and so they have the same rights in terms of access to work and job seeking as all other EU nationals.

A jobseeker is defined in regulation 6(5) of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations') as an EEA national who:

- enters the UK in order to seek employment
- is present in the UK seeking employment, immediately after enjoying a right to reside as a:
 - worker
 - self-employed person
 - self-sufficient person
 - student
- can provide evidence they are seeking employment and have a genuine chance of being employed

Seeking employment

Evidence of seeking employment may include:

- job application forms
- letters of invitation to interviews
- rejection letters from employers
- Jobcentre Plus registration documents including the claimant commitment which outlines what job seeking actions the claimant must carry out while receiving benefits (this alone is not sufficient)
- letters and emails written by the applicant to employers or employment agencies seeking work

Semi-skilled or unskilled people

Evidence of semi-skilled or unskilled people may include activities such as:

- regularly visiting their local Jobcentre Plus office
- reading and applying for jobs advertised in the situations vacant pages of local newspapers

Highly skilled or qualified people

Evidence of highly skilled or qualified people may include activities such as:

- consulting job advertisements in professional magazines
- registering with a specialist employment agency

Simply registering as a job seeker with Job Centre Plus or another employment office is not in itself sufficient to meet the requirement to be seeking employment and have a genuine chance of being employed.

Genuine chance of being employed

The prospect of the EEA national gaining employment will depend on their skills, qualifications and types of jobs for which they are applying and the local labour market conditions.

In all cases you should look to see if the EEA national's academic or professional qualifications and experience compare to the type of employment for which they are applying. Language skills may also be relevant. You may wish to consider:

- what field and location the person will be looking for work
- whether they have relevant skills, training or qualifications
- whether they successfully worked in that capacity in another member state
- any relevant language skills they may hold (may be relevant depending on the field)
- how they will be looking for work
- whether they have demonstrated that they are familiar with where jobs in their chosen field are usually advertised
- what they have done already to look for work in the UK including whether they have:
 - contacted any employers from outside the UK
 - set up any interviews

For example, an EEA national is applying for jobs caring for small children. The EEA national has no prior experience of working in this field in any member state, has no relevant qualifications in child care or child learning and development and has very limited knowledge of English. In this case it is unlikely that the EEA national has a genuine chance of finding work in this field.

Seeking work for longer than the relevant period

An EEA national may not be a jobseeker for longer than the relevant period unless they can provide compelling evidence that they are continuing to seek employment and have a genuine chance of being engaged.

Relevant period

For jobseekers, the relevant period is 91 days (3 months) minus the total of any days during which the person concerned previously enjoyed a right to reside as a jobseeker, unless that previous period was prior to a continuous absence from the UK of more than 12 months.

An EEA national who enters the UK to look for work will have the initial 3 month, unconditional period of residence, conferred by regulation 13 and then the period of 91 days as a jobseeker, providing they are actively seeking work and have a genuine chance of being engaged. In other words, an EEA national who enters the UK to look for work will usually have a 3 month initial right of residence, followed by 91 days (3 months) as a jobseeker, provided the criteria are met. A jobseeker may have access to benefits for this 91 day period of residence as a jobseeker. At the end of the 91 day period as a jobseeker the person will be required to provide compelling evidence, that they are actively seeking work and have a genuine chance of being engaged. If the person cannot satisfy this requirement then they cease to have a right of residence as a jobseeker and consequently cease to have access to benefits.

An EEA national who has not entered the UK as a jobseeker but who is already resident in the UK and becomes a jobseeker immediately after enjoying a right to reside in another capacity (for example a student who ends their course of study and looks for work) will have a right of residence as a jobseeker for 91 days (3 months.) This is providing they are actively seeking work and have a genuine chance of being engaged.

If an EEA national has previously had a right of residence in the UK as a jobseeker, that previous period of residence should be deducted from the relevant period, unless it was prior to a continuous absence from the UK for more than 12 months.

Repeat periods of residence as a jobseeker

An EEA national who has previously completed a period of 91 days residence as a jobseeker, but who ceased to have a right of residence in that capacity will only be able to remain a jobseeker under certain conditions. These are that they haven't since then, been continuously absent from the UK for at least 12 months and can immediately demonstrate that they can provide compelling evidence that they are seeking work and have a genuine chance of being engaged.

Compelling evidence

Since the determination of the Upper Tribunal in *Secretary of State for Work and Pensions v MB & others (JSA)* [2016] UKUT 372 (AAC), the “compelling evidence” test no longer represents a higher threshold than the requirement to prove that a person is actively seeking work and has a genuine chance of finding work. Anyone to whom the “compelling evidence” test applies under the Regulations will instead be required to demonstrate they have a “genuine chance of being engaged”, as outlined in the relevant section of this guidance.

Related content

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Workers

This page tells you how to assess if a European Economic Area (EEA) national is a qualified person in the worker category under the Immigration (European Economic Area) Regulations 2016 ('the 2016 Regulations').

A worker is an EEA national who is exercising their free movement rights in the UK by working in paid employment on a full-time or part-time basis.

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

Assessing whether the EEA national is a worker

While there is no minimum amount of hours which an EEA national must be employed for in order to qualify as a worker, the employment must be genuine and effective and not marginal or supplementary.

Effective work may have no formal contract but should have:

- something that is recognisably a labour contract
- an employer
- agreement between employer and employee that the worker will perform certain tasks
- confirmation the employer will pay or offer services (such as free accommodation) or goods for the tasks performed

Marginal means the work involves so little time and money that it is unrelated to the lifestyle of the worker. It is supplementary because the worker is clearly spending most of their time on something else, not work.

For example, a student who works behind the student union bar for 2 hours a week is actually a student, their work is marginal and supplementary to their actual role as a student.

You must carefully assess each case on its own merits to see whether the EEA national's claimed employment is genuine and effective.

Relevant considerations include:

- whether there is a genuine employer-employee relationship
- whether there is an employment contract
- whether the work is regular or intermittent
- how long the EEA national has been employed for
- number of hours worked

- level of earnings

Case example 1

Mr A is a Spanish national and has recently started work on a construction site for 20 hours each week and earns £250 each week. He provides evidence of a contract of employment and bank statements showing funds regularly entering his account. He has recently registered with HMRC for tax purposes. In this scenario, it is more likely than not that Mr A is a genuine worker.

Case example 2

Mr B is a Dutch national and has recently started work washing cars for a relative. He works cash in hand and has no employment contract. He claims to earn £100 each week and tries to supplement this with odd jobs elsewhere when he can. He has no bank account and cannot show any evidence of tax or national insurance (NI) payments. In this scenario, it is more likely than not, that Mr B's work is marginal and ancillary and so he is not a worker.

Worker or self-employed person who has ceased activity

If a worker or self-employed person has ceased activity, the 2016 Regulations allow them to benefit from a right of permanent residence in the UK if they meet the relevant criteria.

Regulation 15(1)(c) states that a worker or self-employed person shall acquire permanent residence if they have ceased activity.

Retirement

Under regulation 5(2), for an EEA national to meet this criteria, they must have reached the age of entitlement to a state pension on terminating that activity or, in the case of a worker below state pension age, have ceased working to take early retirement.

They must also have pursued activity as a worker or self-employed person in the UK for at least 12 months prior to the termination and have resided in the UK continuously for more than 3 years prior to the termination.

Applicants must produce evidence of either receiving a state or private pension.

For state pensions, the 'default retirement age' (a mandatory retirement age of 65) no longer exists and the current retirement age for state pension purposes is determined by the gender and date of birth of a person. See [pension age](#) for more information.

For private pensions, an applicant must be able to demonstrate that their income from their private pension, or other sources, is enough to cover their living expenses without needing to claim benefits in the UK.

Other income sources may include, but are not limited to:

- investments
- savings
- inheritance

Applicants also need to provide evidence that they pursued activity as a worker or self-employed person in the UK for at least 12 months prior to the termination of their relevant activity and that they resided in the UK continuously for more than 3 years prior to this date.

Please see the [workers](#) and [self-employed person](#) sections for more information on evidence to be provided to demonstrate activity. Evidence to demonstrate 3 years residence in the UK can include, but is not limited to:

- tenancy or mortgage agreements
- utility bills
- bank statements

Case example 1

Mrs C is a Belgian national and has been working in the UK for a period of 4 continuous years as a croupier. She has reached state pension age and decides to leave her employment and live off her state pension. In this scenario, Mrs C would acquire permanent residence status.

Case example 2

Miss D is a Swedish national and has been a self-employed person in the UK for the last 3 years, operating as an archaeologist. At age 47 following the death of a family member she receives a large inheritance and decides that she no longer wishes to work. Mrs D decides to take early retirement and live off the inheritance that she has received. In this scenario, Miss D would acquire permanent residence status.

Case example 3

Mr M is a 69-year-old Spanish national who has been living and working in the UK for 2 years prior to retiring from work as a clockmaker. Although he has reached state pension age and has worked in the UK for 12 months prior to ceasing activity, he has not been resident in the UK for 3 years prior to termination of his activity and the application should be refused.

Permanent incapacity

To meet the criteria of regulation 5(3) an EEA national must have terminated activity in the UK as a worker or self-employed person as a result of a permanent incapacity to work.

Evidence of permanent incapacity to work can include, but is not limited to:

- medical certificates
- letters from a doctor or other health professional outlining the reasons for their inability to work on a permanent basis

Please see the [workers](#) and [self employed person](#) sections for more information on evidence to be provided to demonstrate activity as a worker or self-employed person.

Applicants will also need to provide evidence that they resided continuously in the UK for at least 2 years immediately prior to the termination of their relevant activity or evidence that the incapacity was the result of 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.

“Immediately” in this context means that there has been no break in continuous residence between the termination of the relevant activity and the date of application, and the person who has ceased activity has not become a qualified person in any other capacity since that termination.

Evidence to demonstrate 2 years residence in the UK can include, but is not limited to:

- tenancy or mortgage agreements
- utility bills
- bank statements

Evidence of 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 can include, but is not limited to:

- a letter from their former employer confirming the EEA national’s unemployment was due to an accident at work or occupational disease
- evidence of receiving a pension, such as a letter from the relevant institution or pension statements

Case example 1

Mr N is a Cypriot national who has been living and working in the UK as a tower crane operator for a period of 3 continuous years. At age 35 he is injured in an accident outside of work, resulting in him becoming permanently incapacitated. He is no longer able to work, and is forced to cease his activity as a worker. In this scenario, Mr N would acquire permanent residence status.

Case example 2

Mrs L is a 25-year-old Slovenian national who has been employed in the UK for one year as a landscape gardener. As a result of an accident at work, she is injured

which results in her permanent incapacity. Mrs L's UK based employer provided her with a private pension. In this scenario Mrs L would acquire permanent residence status.

Case example 3

Mrs T is a Maltese national who has been living and working in the UK for one year as an aromatherapist. Due to an accident outside of work she becomes permanently incapacitated. In this scenario, although she has become permanently incapacitated which has resulted in her ceasing activity as a worker, she has not been resident in the UK for over 2 years immediately prior to termination of activity and the application should be refused.

Case example 4

Miss J is an Italian national who has been living and working in the UK for 3 years as a shop assistant, having entered in January 2015. Miss J left the UK for an extended holiday of 5 months in August 2017 to visit relatives in Italy and returned to the UK in January 2018. She has applied for a document confirming permanent residence in the UK.

Due to an accident on holiday she became permanently incapacitated and provided a letter from her consultant to confirm this.

Miss J also provided a letter from her former employer to confirm that she was still employed by them at the date of the accident as well as evidence of her continuous residence in the UK in the form of utility bills.

Although Miss J had been out of the UK for 5 months prior to terminating her contract, her continuity of residence had not been broken, therefore she would be issued with a document certifying permanent residence.

Retaining a place of residence in the UK

To meet the criteria of regulation 5(4), an EEA national must have resided in the UK for a continuous period of at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EEA country, while retaining a place of residence in the UK which they return to, as a rule, at least once a week.

The applicant would need to provide the following:

- evidence of residence in the UK for a continuous period of at least 3 years in the UK, for example, tenancy or mortgage agreements, council tax letters, utility bills etc.
- evidence of having been a worker or self-employed person in the UK for that period of at least 3 years, for example, letter from employer, pay slips, relevant information from HMRC

- evidence of becoming a worker or self-employed person in another EEA country immediately after leaving the UK, for example, letter from employer or pay slips
- evidence of retaining a place of residence in the UK, for example, utility bills, mortgage statements
- evidence that the applicant returns to this place of residence, as a rule, at least one a week, for example, travel tickets

Please see the [workers](#) and [self-employed person](#) sections for more information on evidence to be provided to demonstrate activity as a worker or self-employed person.

“Immediately” in this context means that the applicant must have become employed or self-employed by the end of the 3 month initial right of residence period in the relevant EEA country or, in some cases, they have returned to their state of nationality to become employed or self-employed, and therefore won’t be exercising EEA rights but will be relying on their right to reside as a national of that country.

Case example 1

Mr L is a French national who has lived in the UK since 2013. Between 2013 and 2017, Mr L worked in finance in the UK. In 2017, Mr L took employment as an investment banker in Italy, while remaining resident in the UK and returning to his home every weekend. He has applied for a document confirming permanent residence in the UK.

In support of his application, Mr L has provided evidence that he was resident in the UK as a worker for at least 3 years in the form of a letter from his employer and utility bills.

He has also provided payslips and bank statements to evidence his employment in Italy. The dates confirm he took up employment 5 weeks after ceasing activity in the UK, which satisfies the ‘immediately’ condition of regulation 5(4)(b). Mr L has also provided utility bills for his address in the UK from 2013 to the date of application, as well as his travel history showing that he returns to the UK every weekend.

As Mr L has provided the necessary information, he would be issued with a document certifying permanent residence.

Case example 2

Miss P is a Spanish national who has lived in the UK since 2012 and has worked in Portugal whilst returning to her house in the UK every weekend. She has applied for a document confirming permanent residence in the UK.

In support of her application Miss P has provided evidence that she was resident in the UK as a worker for at least 3 years in the form of payslips and utility bills. She has also provided payslips and bank statements to evidence her employment in Portugal.

Miss P has also provided utility bills for her address in the UK from 2012 to the date of application, as well as her travel history showing that she returns to the UK every weekend.

Although Miss P has provided the necessary information, the dates on her payslips show that she did not take up work for 7 months after ceasing activity in the UK. As this is not 'immediate', she does not meet the criteria of regulation 5(4)(b). Her application for a document certifying permanent residence must be refused for this reason.

Level of Earnings: HM Revenue & Customs (HMRC) threshold

HMRC has a primary earnings threshold (PET), which is the point at which employees must pay class 1 NI contributions. If an EEA national is earning below PET you must make further enquiries into whether the activity relied upon is genuine and effective.

The PET is updated each financial year and you must check the [HMRC website](#) for the current rate.

Tax and National Insurance (NI)

Compliance with the requirement to pay tax and NI is a domestic matter for the UK authorities and failure to comply does not automatically stop an EEA national from qualifying as a worker. However, non-compliance is a strong indicator that the EEA national is in marginal and ancillary employment. This should not be the sole basis on which you determine that the EEA national is not exercising Treaty rights as a worker but is a relevant factor which can be taken into consideration when making this assessment.

If an EEA national appears to be doing an employment activity which is genuine and effective, but is not paying tax and NI, then you must report the employer to Her Majesty's Revenue and Customs (HMRC) for non-compliance with the UK tax and NI requirements.

Charity work

An EEA national doing unpaid charitable work does not qualify as a worker but may be considered to be self-sufficient, further information can be found in the [self-sufficient person's guidance](#).

They may be considered to be a worker if they are doing charity work that involves taking part in the commercial activities of the charity for which they receive payment in the form of having their living expenses and accommodation provided. For more information, refer to EEA case law – [Steymann judgment](#).

Retaining worker status

There are some circumstances when an EEA national who is no longer working does not stop being treated as a worker for the purposes of the regulations. Further information can be found in the section on [retaining worker or self-employed status](#).

Related content

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Self-employed person

This page tells you how to assess if a European Economic Area (EEA) national qualifies as a self-employed person under the Immigration (EEA) Regulations 2016 (as amended) (the regulations).

Case law of the Court of Justice of the European Union has determined the definition of a self-employed person is a community concept, not subject to national definitions.

This means assessing an application from someone on the basis of being self-employed must be non-discriminatory and ensure EEA nationals are not under greater restrictions than those placed upon UK citizens.

Definition of self-employment

A self-employed person is an EEA national, exercising their free movement rights in the UK by working for themselves and generating an income in a self-employed capacity.

You must consider a number of factors, although not all the factors will be relevant to every application. You must decide each application after analysing all the relevant circumstances. Applicants can provide evidence to show they meet the factors listed below in support of their application:

- economic activity
- responsibility and personal freedom
- genuine and effective self-employment

In addition, depending on the type of self-employment the 2 factors below will apply:

- permanence and stability
- membership of a professional body

Reasonable 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

Assessing whether the self-employed activity is genuine and effective

While there is no minimum number of hours an EEA national must engage in self-employed activity to qualify as a self-employed person, the employment must be genuine and effective and not marginal or ancillary.

You can take marginal or ancillary to mean that the self-employed activity involves so little time and money as to be largely irrelevant to the lifestyle of the EEA national.

You must carefully assess if the EEA national's claimed self-employment is genuine and effective. You must assess each case on its own merits, taking into account all of the circumstances of the case.

The [retaining worker status section](#) provides information on the HMRC threshold.

Retaining self-employed person status

There are some circumstances when an EEA national who is no longer in self-employment does not stop being treated as a self-employed person for the purposes of the regulations. Further information can be found in the section on [retaining worker or self-employed person status](#).

Related content

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Related external links

[Immigration \(EEA\) Regulations 2016](#)

Retaining worker or self-employed person status

This page tells you how a European Economic Area (EEA) national worker in the UK, who has temporarily stopped working or being self-employed, can continue to be considered a worker or self-employed person for the purposes of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations').

Following the Court of Justice of the European Union (CJEU) judgment in [Gusa C-442/16](#) a self-employed person is now able to retain their status as a self-employed person in a similar way to a person retaining status after a period of employment.

For the purposes of this chapter, references to 'work', 'working' or 'worker' means employment or self-employment, or someone undertaking those activities.

Someone who has temporarily stopped working can still be considered a worker under regulations 6(2) or 6(4) of the Regulations if they can provide proof that they:

- are temporarily unable to work because of illness or an accident
- are in duly recorded involuntary unemployment
- are involuntarily unemployed and have embarked on vocational training
- voluntarily stopped working to start vocational training related to their previous work

Temporarily unable to work due to illness or accident

In these cases the applicant must provide medical certificates and a letter from their doctor outlining the reasons for their inability to work and why this is temporary.

The Upper Tribunal stated in the case of [FMB Uganda \[2010\] UKUT 447 \(IAC\)](#) that there is no time limit on the definition of temporary in relation to applications under the regulations.

They ruled that anything not permanent is considered temporary even if it lasts for a long time. Therefore, if the evidence from the doctor states the incapacity is temporary you must accept this even if the applicant has been unable to work for some time.

Whilst a temporary inability to work for an extended period is acceptable, if a person gives up work owing to illness but does not take further work once they have sufficiently recovered, this would not be sufficient.

Duly recorded involuntary unemployment

An EEA national may still qualify as a worker if they are involuntarily unemployed after having been employed in the UK and provide proof that they:

- have registered as a job seeker with Jobcentre Plus or a recruitment agency
- entered the UK to seek work
- are in the UK seeking employment immediately after enjoying a right to reside as a worker, student, self-employed person or self-sufficient person

The applicant must provide evidence that they are involuntarily unemployed and seeking work.

This can be provided in the form of:

- a letter from their former employer confirming:
 - the dates they were employed
 - their unemployment was involuntary
- information to explain why their self-employment was involuntarily terminated, which can include a:
 - letter from a doctor to confirm the applicant is unable to work for a sustained period due to illness or accident
 - evidence that the company has fallen into liquidation and is no longer operational
- a letter from Jobcentre Plus or a recruitment agency confirming they have registered with them
- proof they are seeking work

If the EEA national was working in the UK for less than one year before becoming involuntarily unemployed, then they cannot retain worker status for longer than 6 months.

If they had been working for more than one year they can keep worker status if they can provide compelling evidence to show they are continuing to seek employment.

If they were working for less than 6 months and then ceased working and registered with Jobcentre Plus, but after a further 6 months had still not got any further work, they would not be able to keep their worker status any longer. Instead they must either become a qualified person in another capacity (for example as a student or self-sufficient person, but not a jobseeker).

Genuine chance of being employed

The determination of the Upper Tribunal in *KH v Bury Metropolitan Borough Council and Secretary of State for Work and Pensions (HB)* [2020] UKUT 50 (AAC) means that a person no longer needs to demonstrate they have a genuine prospect of being employed when seeking to retain their worker status. Despite this requirement remaining within the Regulations, it is no longer applicable and must be read down.

Involuntary unemployment and vocational training

EEA nationals who are involuntarily unemployed and have started vocational training must provide evidence that the unemployment was involuntary. This can be in the form of:

- a notice of their involuntary unemployment from their former employer
- information to explain why their self-employment was involuntarily terminated, which can include:
 - a letter from a doctor to confirm the applicant is unable to work for a sustained period due to illness or accident
 - evidence that the company has fallen into liquidation and no longer operational
- a letter from their training provider confirming:
 - what type of vocational training they have enrolled on
 - they are attending the training

This list is not exhaustive and any information provided by an applicant should be fully considered.

Voluntary unemployment and vocational training

As well as the evidence listed under the section involuntary employment and vocational training, if a person has voluntarily stopped working but has started vocational training, they must show that their vocational training is related to their previous employment.

Retaining worker status following pregnancy

In the Court of Justice of the European Union (CJEU) case of [Jessy Saint-Prix vs Secretary of State for Work and Pensions C-507/12](#), the CJEU clarified that an EEA national who becomes temporarily unable to remain in employment in the late stages of pregnancy, can retain their worker status and their right of residence in the UK. This only applies to people in employment. The Saint-Prix judgment does not apply to self-employed people.

This is provided the EEA national returns to their previous employment or finds another job within a reasonable period (the Upper Tribunal says up to 52 weeks). Seeking work in this context is seeking work as a retained worker, rather than a jobseeker.

Reasonable period

The court did not determine what was considered a reasonable period but gave guidance to the effect that it should take account of all the specific circumstances of the case and the applicable national rules on the duration of maternity leave.

Regulation 6(2) does not cover the interim reasonable period before the woman goes back to work. The judgment confers a conditional right to reside on a

retrospective basis, provided certain conditions were met. It does not govern the status of the person during the reasonable period. During the reasonable period our policy is that there is a substantive right to reside.

Under domestic legislation, pregnant women in employment are entitled to 26 weeks maternity leave. Where they are not entitled to statutory maternity pay or maternity allowance, they may be able to claim Income Support for a period aligned with the 26 week maternity leave period (up to 11 weeks before the expected week of confinement and 15 weeks after childbirth). As a guideline, the 15 week period should be used as a gauge for considering whether an EEA national who has given up employment for reasons of pregnancy, has returned to work within a reasonable period.

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Self-sufficient persons

This page tells you what documents a European Economic Area (EEA) national must provide with an application for a document, confirming their right of residence as a qualified person in the self-sufficient person category.

A self-sufficient person is an EEA national who is exercising their free movement rights in the UK. They 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

For more information on assessing if the EEA national has sufficient resources so that they do not become a burden on the social assistance system of the UK, see [Assessing sufficient resources](#).

For further information on CSI, see [Comprehensive sickness insurance](#).

They could also qualify as self-sufficient based on the income of their family member if this money is available to them. For example, their non-EEA spouse may have permission to work in the UK under the Immigration Rules and be providing financial support to the EEA national from their income alone.

This would be considered acceptable for the purposes of the Immigration (EEA) Regulations 2006, as long as the EEA national also has CSI cover for themselves and any family members.

Charity workers

An EEA national may qualify as a self-sufficient person if they can show they have enough funds to support themselves, or the charity is meeting their living costs. They must have CSI but the charity can meet the cost of this. For example, a minister of religion might qualify as self-sufficient if their living costs are being met by the religious institution they are employed by.

They may be considered to be a worker if they are doing charity work that involves taking part in the commercial activities of the charity for which they receive payment in the form of having their living expenses and accommodation provided. For more information, refer to EEA case law: [Steymann judgment](#).

Retired people

An EEA national may qualify as self-sufficient if they can show they receive a state or private pension or have enough income from other sources, such as investments, to cover their living expenses without needing to claim benefits in the UK.

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Students

This page tells you the documents a European Economic Area (EEA) national must provide with an application for a document confirming their right of residence as a qualified person in the student category.

An EEA national exercising their free movement rights in the UK as a student must show they:

- are enrolled for the main purpose of following a course of study (including vocational training) at a public or private establishment which is:
 - financed from public funds
 - recognised by the Secretary of State as an establishment accredited to provide such courses or training within the law or administrative practice of the part of UK in which it is located
- have enough money to meet their living expenses and so will not become a burden on the social assistance system of the UK during their residence- suitable evidence of this includes:
 - bank statements
 - other evidence of the award of a grant or sponsorship
 - written confirmation by the student that they have enough money
- have comprehensive sickness insurance (CSI) cover in the UK for themselves and any family members

For more information on assessing if the student has sufficient resources so that they do not become a burden on the social assistance system of the UK, see [Assessing sufficient resources](#).

For further information on assessing educational establishments, see [Assessing educational establishments](#)

Public funds

EEA nationals in the UK as students are expected to support themselves without relying on public funds. For more information, see Public funds.

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Assessing educational establishments

This page tells you how to check if an educational establishment can be relied upon by a European Economic Area (EEA) national to qualify as a student for the purposes of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations').

There are 2 stages for considering if an educational establishment is acceptable for the purposes of the regulations:

- [Stage 1: Tier 4 register of sponsors](#)
- [Stage 2: Independent evidence](#)

You must work through the stages in the order given.

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Stage 1: Tier 4 register of sponsors

This page tells you how to consider stage one in order to check if an educational establishment can be relied upon by a European Economic Area (EEA) national to qualify as a student for the purposes of the Immigration (EEA) Regulations 2016 (as amended).

You must check if the establishment is listed on the [Tier 4 Register of Sponsors](#). Establishments listed on this register are acceptable for the purposes of regulation 4.

If the establishment does not appear on the register, you must proceed to [stage 2](#) of the consideration process.

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Stage 2: Independent evidence

This page tells you how to consider stage 2 in order to check if an educational establishment can be relied upon by a European Economic Area (EEA) national to qualify as a student for the purposes of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations').

The second stage of the consideration process is to check whether the EEA national can produce independent evidence that the educational establishment is either:

- publicly funded
- otherwise accredited

An establishment not listed on the Tier 4, Knowledge of Life (KoL) or Euro databases may still be in receipt of public funding or otherwise accredited.

This evidence can be provided following the guidelines set out in the following sections:

- [publicly funded](#)
- [otherwise accredited](#)
- [no evidence submitted](#)

Where not provided by the applicant, it must be requested before a refusal is issued.

Publicly funded

An establishment will be publicly funded if it is:

- an establishment or further education provider maintained by a local education authority
- an establishment in the higher education sector which received financial support by a higher education funding council (pursuant to the Further and Higher Education Act 1992)
- any establishment receiving grants, loans or other payments from the Higher Education Funding Council for England

If evidence is submitted which demonstrates the establishment in question is publicly funded as described above this is acceptable for the purposes of the regulations.

Otherwise accredited

A private establishment not included on the Tier 4 register may still be accepted as accredited if evidence is received that the institution holds a valid and satisfactory full institutional inspection, review, or audit by a body with a formal role in the statutory regulation of education in the UK.

The relevant bodies are:

- Quality Assurance Agency for Higher Education
- Ofsted
- Education Scotland
- Estyn
- Education and Training Inspectorate
- Independent Schools Inspectorate
- Bridge Schools Inspectorate
- School Inspection Service

No evidence submitted to demonstrate that the establishment is publicly funded or otherwise accredited

If no evidence is received after writing out, the application for a document can be refused on the basis that the applicant has not demonstrated they are enrolled at a private or public educational establishment.

Before refusing the application, you must consider if the applicant meets the requirements under regulation 4(1)(c) and could be considered as exercising Treaty rights as a self-sufficient person rather than a student.

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Assessing sufficient resources

This page tells you how to assess if a European Economic Area (EEA) national self-sufficient person or student and their family members have sufficient resources not to become a burden on the social assistance system of the UK.

The Immigration (EEA) Regulations 2016 (as amended) ('the Regulations') state that an EEA national self-sufficient person or student and their family members must have sufficient resources available so they do not become a burden on the social assistance system of the UK.

When deciding if an EEA national and their family members have sufficient resources you must first check if they exceed the maximum level of resources which a British citizen and their family members can have before they no longer qualify for social assistance under the UK benefit system.

If they do exceed the maximum level, then you must accept that they have sufficient resources.

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Exceeding the maximum level of resources to qualify for social assistance

This page tells you how to consider whether a European Economic Area (EEA) national claiming a right of residence as a student or self-sufficient person has resources which exceed the maximum level of resources to qualify for social assistance.

You must take into account the personal situation of the applicant and their family members.

In most cases it will be clear if an applicant exceeds the maximum level of resources which a British citizen and their family members are allowed to have before they no longer qualify for social assistance.

The applicant will exceed this level if they provide documents showing they have enough resources to cover their essential outgoings. For example, the applicant can provide evidence of resources by providing one or more of the following:

- bank statements showing savings
- evidence of pension payments
- receipt of educational grants from overseas
- income of a partner, spouse or other family member to which they have regular access, for example:
 - parental funding
 - a spouse's salary earned through lawful working in the UK

This is not a complete list of all the types of evidence. Applicants can provide any other evidence showing that they and their family members have enough resources available to them, to take them above the level of resources which a British citizen and their family members may possess before they are no longer eligible for social assistance under the UK benefit system. You must assess each case on a case-by-case basis.

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

If an EEA national and their family member's resources do not exceed the maximum levels of resources a British citizen and their family members can have before they no longer qualify for social assistance, you must take into account their personal situation to see if their resources are nonetheless sufficient on the facts of the case.

This means assessing their:

- financial commitments, such as:

- rent
- mortgage
- utilities
- loans
- credit cards
- other personal debt
- additional costs, such as:
 - travel
 - food costs

This is not a complete list, you must assess each case on a case-by-case basis. If you are unsure whether or not to accept evidence, you must speak to your senior caseworker.

The applicant can also show they have enough resources if their circumstances are about to change, such as if they are about to:

- receive an inheritance, for example a solicitor's letter confirming when this is to be received
- enter potential employment, for example a letter confirming an offer of a job
- retire or receive pension payments, for example a letter from the pension company confirming when it is to be paid

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

If, having taken into account the personal situation of the EEA national and examined the evidence, you are satisfied that their resources and that of their family members exceed or will shortly exceed what is required to meet their financial commitments and living costs, those resources should be regarded as sufficient.

In all cases where the applicant does not exceed the maximum level they can have so that they qualify for social assistance you must speak to your senior caseworker.

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Declarations made by students

This page tells you how to assess whether a European Economic Area (EEA) national student has shown they have sufficient resources not to become a burden on the social assistance system. This is in line with regulation 4(1)(d)(iii) of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations').

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

This means that when dealing with applications from students you might receive either:

- evidence in the form of documentation
- a declaration

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

Where the applicant chooses to make a declaration they must confirm that they meet the requirements relating to having sufficient resources.

If the declaration is not clear or detailed enough to confirm these requirements are met, you must either:

- request further information
- refuse the application

In cases where a declaration is made and the declaration is not clear enough you must speak to your senior caseworker for approval before refusing the application.

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Comprehensive sickness insurance

This page defines comprehensive sickness insurance (CSI) and explains which European Economic Area (EEA) nationals and their family members must hold it.

You can accept an EEA national or their family member as having CSI if they hold any form of insurance that will cover the costs of the majority of medical treatment they may receive in the UK.

You must take a proportionate approach when you consider if an insurance policy is comprehensive. For example, a policy may contain certain exemptions but if the policy covers the applicant for medical treatment in the majority of circumstances you can accept it.

The definition of CSI does not include:

- cash back health schemes, such as:
 - dental
 - optical
 - prescription charges
- travel insurance policies
- access to the UK's NHS

For information on the acceptable documents to show they have CSI, see [comprehensive sickness insurance - documents required](#).

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Applicants who must have comprehensive sickness insurance

This page tells you how to consider which European Economic Area (EEA) nationals and their family members must have comprehensive sickness insurance (CSI) to be eligible for a document confirming their right of residence in the UK.

Regulation 4(1)(c)(ii) and (d)(ii) of the Immigration (European Economic Area) Regulations 2016 (as amended) states that nationals living in the UK as self-sufficient people or students must have CSI.

Regulation 4(2) of the regulations states that CSI must also cover the family members of self-sufficient persons. From 6 April 2015 (implemented in practice from 22 June 2015), this also applies to the family members of students.

Following the changes to the Regulations, regulation 4(4) has been amended to include dependent children of primary carers as well as primary carers for the purposes of regulation 16(2). This means that there is a requirement for all family members, who are dependent on that child for a right of residence, to hold CSI.

For more information see guidance on derivative rights of residence.

Family members of British citizens under regulation 9 must have CSI if the British citizen intends to be economically inactive in the UK on their return. As British citizens have free access to the NHS they would not be required to hold CSI.

For more information see guidance on direct family members of EEA nationals.

If the following persons do not provide evidence of CSI you must refuse the application:

- a self-sufficient person or any of their family members
- a student or any of their family members
- family members dependent on a child under regulation 16(2) (Chen)
- family members of British citizens where the British citizen is economically inactive

Before you refuse the application, you must consider if:

- transitional arrangements apply where the application is for permanent residence and the EEA national has been issued with a registration certificate as a student before 20 June 2011
- arrangements apply where the CSI is required for the family members of students following changes to the regulations on 6 April 2015

For more information on the transitional arrangements for students, see [comprehensive sickness insurance – transitional arrangements for students](#).

For more information on the arrangements for family members of students, see [comprehensive sickness insurance – arrangements for family members of students](#).

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Comprehensive sickness insurance: documents required

This page tells you what documents a European Economic Area (EEA) national or their family member can provide to show they have comprehensive sickness insurance (CSI).

For applications for a registration certificate or a residence card

They must provide one of the following documents to show they have CSI:

- a comprehensive private medical insurance policy document
- a valid European Health Insurance Card (EHIC) issued by an EEA member state other than the UK (for people temporarily in the UK)
- form S1
- form S2
- form S3

For applications for a document certifying permanent residence or a permanent residence card

They must provide one of the following documents or a combination of these documents covering their 5 continuous year's residence in the UK:

- a comprehensive private medical insurance policy document
- a valid European Health Insurance Card (EHIC) issued by an EEA member state other than the UK (or its predecessor form E111)
- form S1 (or its predecessor forms E109 or E121)
- form S2 (or its predecessor form E112)
- form S3

For information on the definition of CSI, see [comprehensive sickness insurance](#).

Applications for a registration certificate or a residence card - EHIC is provided

If the applicant provides a valid EHIC as evidence of CSI, it must have been issued by a member state other than the UK, because the member state that issued the card will cover the cost of treatment.

You can only accept the valid EHIC as CSI if the applicant is living in the UK on a temporary basis.

If it is clear from other information they provide they are in the UK temporarily, you do not need to request further information. For example, a student may be undertaking a year long course and have a provisional job offer in their home country.

If it is not clear and they have not provided specific evidence, you must request a statement of intent showing they are in the UK on a temporary basis. The statement must be signed and dated by the applicant and assessed on its individual merits.

For example, the statement could:

- include a declaration that they have a number of properties or business interests in their home country to which they intend to return
- provide details of their family ties in their home country and evidence of visits home

Applications for a document certifying permanent residence or a permanent residence card: EHIC or E111 is provided

You do not need a statement of intent with these applications as at the permanent residence stage you are deciding if the applicant has already acquired a right of permanent residence in the UK.

Therefore, the applicant's intentions for the future are irrelevant. In these circumstances, applicants only need to provide evidence to show they had an EHIC (or an E111) for the whole of their 5 years continuous residence.

If the applicant submits an EHIC which does not cover the whole of the period relied upon, or does not feature a valid from date, they must also submit evidence from the issuing authority confirming that they held a valid EHIC card for the period relied upon.

Forms S1, E109 and E121

From 1 May 2010 the S1 form replaced the E109 and E121 forms. The S1 form is a certificate of entitlement to health care in another EEA country for a limited duration and can only be used by certain people. For example:

- state pensioners
- dependants of an insured person working in another member state

If applying for permanent residence they can provide one or a combination of these forms for their 5 years continuous residence.

Forms S2 and E112

From 1 May 2010 the S2 form replaced the E112 form. The S2 covers the actual cost of treatment. For example, insured people who are referred for specific treatment in another EEA country or Switzerland will have the cost of their treatment covered. When applying for permanent residence or a permanent residence card the applicant may provide one or a combination of these forms for their 5 years continuous residence.

Form S3

The S3 form will cover the cost of treatment. For example, retired frontier workers continuing treatment in the member state they previously worked in will have the cost of their treatment covered.

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Comprehensive sickness insurance: transitional arrangements for students

This page tells you about the transitional arrangements which apply to European Economic Area (EEA) national students where they are required to hold comprehensive sickness insurance (CSI) in the UK.

Transitional arrangements

You must not refuse an application for permanent residence from an EEA national who is exercising free movement rights in the UK as a student solely on the grounds that there is no evidence of CSI on the date of decision where:

- the Home Office issued a registration certificate to the EEA national on the basis of their residence in the UK as a student before 20 June 2011

When considering a permanent residence application in these cases, you must accept that time spent in the UK prior to the grant of the registration certificate was time spent in line with the CSI requirement.

You must check the CID to ensure the requirements of the transitional arrangements are met. If these requirements are met, and the application for permanent residence does not include any evidence of CSI, then the application can be considered as if the CSI requirement has been met.

Examples of when the transitional arrangements do not apply

EEA nationals who have already been issued with a registration certificate on another basis (such as a worker), who then became a student (but who did not reapply for a document confirming this before 20 June 2011) will not be treated under these transitional arrangements. Such applicants must show evidence of CSI for any time spent in the UK as a student.

Where an application for permanent residence is received on the basis that the EEA national is a student, but they have never been granted a registration certificate. They must show evidence that they have had CSI for the duration of their time spent as student.

EEA nationals residing in the UK as a self-sufficient person. Such persons have always been required to provide evidence of CSI.

If an applicant does not fall within the transitional arrangements outlined previously and they cannot provide evidence that they hold CSI, then you must refuse the application.

For further information on what is evidence of CSI, see [Comprehensive sickness insurance: documents required](#).

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Comprehensive sickness insurance: arrangements for family members of students

This page tells you how to assess family members of European Economic Area (EEA) national students where they are required to hold comprehensive sickness insurance (CSI) in the UK.

Changes to the Immigration (EEA) Regulations 2016 (the regulations)

From 6 April 2015, changes were made to the regulations to require the family members of EEA nationals exercising free movement rights as students, to hold CSI in the UK. This in line with the requirements for family members of self-sufficient persons to hold CSI.

Whilst changes to the regulations were made on 6 April, for operational reasons, the requirement for family members of students to hold CSI will only be applied in practice from 22 June 2015.

Registration certificates and residence cards: applications received on or after 22 June

Applications for registration certificates or residence cards received on or after 22 June will be decided in line with the amended regulations. This means that evidence of CSI must be provided to cover the EEA national and any family member also residing in the UK with them. Where there is no evidence of CSI for the EEA national or their family members, the application must be refused.

Registration certificates and residence cards: applications received before 22 June

In order to give applicants the opportunity to meet this new requirement, where an application for a registration certificate or residence card has been received prior to 22 June, and remains outstanding, you must issue a document where the EEA national student has evidence of CSI and all other requirements of the regulations are met. This means that you must not refuse an application where the family members of the EEA national do not also have CSI on the date of decision (even if that decision date is after 22 June).

In order to make applicants aware of the change in requirements, where it is proposed to issue a registration certificate or residence card, you must issue an accompanying letter which explains that any subsequent applications (including for permanent residence) must show full compliance with the new requirements for CSI.

Permanent residence cards and documents certifying permanent residence

Applications for permanent residence must be considered according to the qualifying period under consideration.

For example, a family member of an EEA national student applied for a permanent residence card on 15 February 2015 and this application remains outstanding on 22 June 2015. They have provided evidence their EEA national sponsor was a student and that the EEA national held CSI for the period January 2010 to January 2015. As this qualifying period preceded the implementation of the CSI requirement, you can accept for the purposes of CSI, that the regulations have been met.

Contrast this to a family member of an EEA national student who applies for a permanent residence card on 15 September 2015. This application relies on a qualifying period between September 2010 and September 2015. In this case the family member must provide evidence that they also have CSI, in addition to their EEA national sponsor, for the period between 22 June 2015 and September 2015 (the period after the requirement to hold CSI was applied).

Any part of the 5 year qualifying period that is being relied upon before 22 June, you must accept evidence of CSI for the EEA national only.

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Rights of permanent residence for qualified persons

This page tells you how to consider the right of permanent residence for European Economic Area (EEA) nationals who have exercised their free movement rights in the UK as a qualified person under regulation 15 of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations').

EEA nationals can apply for a document certifying permanent residence in the UK under regulation 19, if they have lived here for 5 continuous years in line with the European Union (EU) laws relating to free movement rights that were in force during the 5 year period.

If an EEA national has the right of permanent residence in the UK they will only lose this right if they are absent from the UK for more than 2 consecutive years. There are no other conditions they must satisfy in order to continue to have this right.

For information on the meaning of continuous residence please see [assessing continuous residence](#).

All documents submitted as evidence to show the applicant has been a qualified person for a continuous period of 5 years must be originals. You cannot accept photocopies unless there are valid reasons why the applicant cannot provide the original document.

In such circumstances, you can accept a copy certified by the body or authority which issued the original document or by a legal representative. All documents not in English must be accompanied by an official English translation.

Applications for a permanent residence document

Applicants must complete the EEA(PR) application form to apply for a document certifying permanent residence.

All applicants claiming to be a qualified person must provide evidence of their nationality by providing either:

- a valid passport from an EEA state
- a national identity (ID) card from an EEA state

The passport or ID card must show the applicant has been an EEA national for the whole of the 5 years.

They must also provide evidence to show they have been resident in the UK for the same 5 continuous years. Further information can be found in the section [assessing continuous residence](#).

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Assessing continuous residence

This page tells you how to assess continuous residence in applications for a document certifying a right of permanent residence under regulation 19 of the [Immigration \(European Economic Area\) Regulations 2016](#) (as amended) ('the Regulations').

In order for a European Economic Area (EEA) national to be issued with a document certifying a right of permanent residence, they must provide evidence to show that they have resided in the UK in accordance with regulations for a continuous period of 5 years.

Evidence of a continuous 5 year period of residence in the UK can include:

- tenancy agreements
- utility bills
- bank statements
- school or nursery letters or immunisation records in support of applications for children

This is not a complete list of evidence that you can accept.

Definition of continuity

Regulation 3 of the regulations sets out how the 5 year period is calculated. When you calculate the 5 year period of residence, the following absences will not count as a break in continuity:

- time spent out of the UK of 6 months or less in total in any 12 month period
- time spent outside the UK on compulsory military service
- any single period of time spent outside the UK of 12 months or less that was for an important reason including:
 - pregnancy
 - childbirth
 - serious illness
 - study
 - vocational training
 - an overseas posting

Broken continuity of residence

Regulation 3 of the regulations states how the 5 year period of continuous residence can be broken.

Continuity of residence is broken when a:

- person serves a sentence of imprisonment
- deportation or exclusion order is made in relation to a person

- person is removed from the UK under these regulations

Regulation 3(3)(a) applies to a person who has resided in the UK under the regulations for a total period of 10 years for the purposes of regulation 27(4), decisions taken on grounds of public policy, public security and public health, where imprisonment was such to break any previously forged integrating links.

See [Periods of imprisonment](#) for further guidance.

Absences from the UK

Absence(s) of 6 months or less (in total) in any 12 month period, or a single absence of up to 12 months for an important reason, will not break continuity of residence for the purposes of acquiring a right of permanent residence. Therefore, the period does not restart when that person re-enters the UK.

If the applicant was removed from the UK at any time during the 5 year period then the continuity of residence is broken.

When you calculate if an applicant has spent more than 6 months outside the UK in any 12 month period you must base it on the period of time the applicant claims to have resided in the UK in line with the regulations.

For example, an EEA national claims they have resided in the UK from October 2005 to October 2010. If they lived and worked in the UK from October 2005 until February 2008, resigned from their job to work in another EEA state for 10 months before returning to live and work in the UK in December 2008 their continuity of residence was broken. This is because they were absent from the UK for more than 6 months in a 12 month period, and it was not for an important reason.

Periods of imprisonment

In the case of [Onuekwere \(C-378/12\)](#), the Court of Justice of the European Union (CJEU) found that periods of imprisonment by family members of EEA nationals cannot be taken into consideration for the purposes of gaining a right of permanent residence. In addition, the court found that periods of residence both before and after prison cannot be aggregated and counted towards the 5 year qualifying period for permanent residence.

The case of [MG \(C-400/12\)](#) confirmed the principle that continuity of residence can be broken by periods of imprisonment in the context of the acquisition of enhanced protections from expulsion (Article 28 of the directive). MG also established the position that for individuals who are imprisoned, when calculating continuous residence for the purposes of Article 28 enhanced protections, this must be counted backwards from the expulsion date.

Time spent in prison by EEA nationals or their family members breaks the integration link with the host member state, and therefore interrupts continuity of residence, both for the purpose of acquiring permanent rights of residence and for acquiring

enhanced protection from expulsion, as provided for in Article 28 of the Citizenship Directive.

For example, a person who resided in the UK for 3 years, spent one year in prison and then a further 2 years following their release from prison, cannot aggregate the periods before and after prison to count towards the 5 year qualifying period for permanent residence. Any qualifying period would, therefore, effectively re-start at the point they were released from prison and started residing in accordance with the EEA Regulations.

The 3 month initial period would not come into play following release from prison and therefore the person would need to evidence that they began exercising Treaty rights immediately after being released.

Calculating periods of residence

Calculation of length of residence is one of the most important parts of the consideration process, especially when it comes to considering whether to remove an individual on grounds of public policy under regulations 24 and 27.

When calculating periods of residence where the person has spent time in prison, you must:

- count backwards from the date of the expulsion decision as in the CJEU of MG
- not aggregate periods before and after time spent in prison
- be aware that the qualifying period would start again following release from prison
- see evidence that the person was residing in accordance with the EEA Regulations following release from prison

For further information on the CJEU cases of Onuekwere and MG, see the European Economic Area (EEA) case law and appeals guidance.

No valid proof of continuous residence provided

You must refuse the application if the applicant has not proven that they have been resident in the UK continuously for 5 years. Regulation 37 of the Immigration (EEA) Regulations 2016 (as amended) ('the Regulations') provides a right of appeal against a refusal on this basis.

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Permanent residence for EU8 nationals

This page tells you how to assess applications for a document certifying permanent residence or permanent residence cards from European Union (EU), EU8 national workers and their family members.

The Accession (Immigration and Worker Registration) Regulations 2004 introduced the workers registration scheme (WRS) covering the countries that joined the European Union on 1 May 2004. The scheme lasted until 30 April 2011, when transitional arrangements for EU8 nationals ended.

The period 1 May 2004 to 30 April 2009 is known, in relation to EU8 countries, as the accession period.

Nationals of the following countries (known as EU8 nationals) were covered by the WRS:

- Czech Republic
- Estonia
- Hungary
- Latvia
- Lithuania
- Poland
- Slovakia
- Slovenia

Exemption from worker registration

Not all EU8 nationals needed to register their employment. Please note that there are no longer accession state restrictions, although the guidance in use when they were in force containing a list of exemptions can be found at European casework instructions chapter 7 - accession state nationals (archived).

Checks to make

If a EU8 national is relying on a period of work between 1 May 2004 and 30 April 2009, you must check that the EU8 national either:

- registered their employment
- was exempt from the need to register

The applicant must provide evidence of registration or exemption. If the applicant was issued with a European Economic Area (EEA) registration certificate (or residence permit under the 2000 regulations) after they became exempt from the scheme, they must provide this document. As long as CID confirms the registration

certificate or residence permit was issued on the basis of exemption, you do not need to see further evidence of exemption.

If the applicant was not issued with an EEA registration certificate or residence permit during the accession period, they must provide proof to show they were registered on the scheme or exempt, such as:

- their worker registration card and all worker registration certificates held
- letters from employers or contracts of employment confirming the dates they worked
- proof they were exempt from the scheme for other reasons such as:
 - proof they were the family member of an EEA national who was not an accession state national and was exercising Treaty rights in the UK

If an applicant claims to have lost their WRS card or certificate, you must ask the free movement operational policy team to check whether they were registered as claimed. Email the European Migration and Citizens' Rights Unit.

If you cannot determine whether the applicant needed to register, you must ask your senior caseworker (SCW) for advice. If your SCW cannot work this out, they must get advice from the European Migration and Citizens' Rights Unit.

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EU8 nationals background information

This page gives you background information on the European Union (EU), EU8 accession category.

Important points

During the accession period, an EU8 national needed to register their employment under the worker registration scheme (WRS) within one month (30 days) of starting a new job if:

- they were not exempt from worker registration
- the employment was expected to last more than one month

Employment was treated as being authorised for the first month. This means that an EU8 national did not have to register if the time of the employment was for one month or less.

If the employment lasted for more than one month, and the EU8 national applied to register within the first 30 days but the application was not decided by the end of that month, they were treated as though they were legally working while the application was pending.

If they did not apply within one month, the employment would be unauthorised after the first month, unless or until they registered.

EU8 nationals who changed employers before completing 12 months of uninterrupted employment in the UK needed to re-register with their new employer under the scheme.

If an EU8 national complied with WRS for the required period of 12 months, they became exempt from the scheme at the end of those 12 months. They could then choose to apply for a registration certificate as a worker under the European Economic Area (EEA) Regulations. Persons who completed 12 months registered employment did not have to register any further employment with the scheme.

An EU8 national who has worked in the UK, and who had to register under the WRS during the accession period but did not do so, would not have been exercising free movement rights in the UK for any time spent in the UK as a worker before 30 April 2009.

During the accession period, EU8 nationals who were under worker registration:

- could not establish a right of residence as a jobseeker
- only had a right of residence as a worker while they were working in line with the WRS, if they stopped working for any reason before completing 12 months, they would not be treated as a worker in accordance with regulation 6(2) of the EEA Regulations

Documents issued to EU8 nationals during the accession period

When an EU8 national registered for the first time on the WRS, they were issued with a:

- worker registration card containing a photograph of the applicant and valid for the duration of the scheme
- worker registration certificate, giving the name of the employer named on their application and valid for as long as they were working for that employer

If the EU8 national changed employer before becoming exempt from the scheme, they needed to register the change of employment. They would then be issued with a new worker registration certificate, giving the name of the new employer. They would not receive a new worker registration card.

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Permanent residence for EU2 nationals

This page tells you how to consider applications for a document certifying permanent residence or permanent residence cards from Bulgarian and Romanian, European Union (EU), EU2 nationals and their family members.

Applications involving EU2 nationals or family members of EU2 nationals

If the applicant is either:

- a EU2 national relying on a period of residence in the UK as a worker
- a person (of any nationality) relying on a period of residence in the UK as the family member of an EU2 worker

You must be satisfied that the relevant EU2 national:

- was working in line with an accession worker authorisation document if needed
- was exempt from holding an accession worker authorisation document

For example, an EU2 national will get permanent residence if they complete a continuous 5 year period as a worker, which started with an uninterrupted 12 month period of work in line with an accession worker authorisation document.

If the EU2 national worked without authorisation while they were subject to that requirement, this will not count as legal residence for the purposes of acquiring permanent residence, nor will any subsequent unauthorised work undertaken during the transitional period.

Checking the relevant EU2 national was authorised to work or was exempt

If the applicant is relying on a period of residence as a worker, you must be satisfied that they were authorised to work or were exempt during the initial 12 month period as a worker.

Applicants who have worked during the accession period will need to provide the following evidence:

- any accession worker authorisation documents they have held
- a letter from any relevant employers confirming the dates they worked for them
- evidence they are or were exempt from worker authorisation, such as:
 - a blue registration certificate confirming they had no restrictions on their right to work
 - other evidence, such as proof they are or were married to or in a civil partnership with a British citizen

There may be circumstances when workers will not be able to provide their worker authorisation document. For example, they have:

- lost it
- since got a blue registration certificate and had to give up their worker authorisation document as part of that application

In such cases, you must check CID to confirm if a worker authorisation document was issued. You can accept this, alongside the letter from their employer to show they have worked for an interrupted period of 12 months.

EU2 nationals who were self-employed, self-sufficient or students

The Accession Treaty does not allow member states to interfere with the right of EU2 nationals to exercise free movement rights as self-employed or self-sufficient persons, or as students.

You must consider periods of residence in these categories, or as the family member of such a person, in the same way as for European Economic Area (EEA) nationals who are not under transitional arrangements.

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EU2 nationals exempt from worker authorisation

This page tells you about European Union (EU), EU2 nationals who were exempt from worker authorisation. If an EU2 national worked for an uninterrupted period of 12 months in line with an accession worker authorisation document, they became exempt from worker authorisation at the end of the 12 months.

This means they would have had no restrictions on their right to work and could reside in the UK as workers or jobseekers in the same way as other European Economic Area (EEA) nationals.

Not all EU2 nationals needed to complete 12 months authorised employment to become exempt. There were a number of exemptions contained in regulation 2 of the Accession Regulations. Examples include, but are not limited to, where the EU2 national:

- was the spouse or civil partner of a British citizen
- was the family member of an EEA national (other than a Bulgarian or Romanian national) who had a right to reside in the UK
- held a blue registration certificate as a highly skilled person

If an EU2 national was exempt from worker authorisation, they were able to apply for a blue registration certificate. This was not compulsory except for highly skilled EU2 nationals, who had to get a blue registration certificate to show they were exempt.

Please note that there are no longer accession state restrictions, although the guidance in use when they were in force, containing further information on blue registration certificates, can be found at: Bulgarian and Romanian casework – blue registration certificates (archived).

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EU2 national students and worker authorisation

This page tells you about European Union (EU), EU2 national students and worker authorisation. During the transitional period, EU2 nationals were allowed to reside in the UK as students in the same way as other European Economic Area (EEA) nationals.

They could apply for a yellow registration certificate to confirm their right of residence but, unless they also wished to work, were not forced to do so.

If an EU2 national student wished to work along with, or as part of, their studies, and they were not otherwise exempt from worker authorisation, they first had to get a yellow registration certificate. This allowed the student to work:

- for up to 20 hours each week during term-time (in work not related to their course)
- full-time while undertaking a work placement which forms part of a vocational training course
- full-time during vacation periods
- full-time for the 4 months following the end of their course (provided they actually complete the course)

Please note that there are no longer accession state restrictions, although the guidance in use when they were in force, containing further information on yellow registration certificates, can be found at: Bulgarian and Romanian casework – yellow registration certificates (archive).

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Documents for EU2 accession nationals

This page tells you about the types of document accession workers could apply for.

Meaning of accession worker authorisation document

Regulation 9(2) of the Accession Regulations defines an accession worker authorisation document as:

- an accession worker card (AWC) (also known as a purple card)
- a seasonal agricultural workers scheme (SAWS) card
- a passport or travel document endorsed before 1 January 2007 showing:
 - the holder was granted leave to enter or remain in the UK
 - a condition restricting their employment to a particular employer or category of employment (for example, leave as a work permit holder or au pair)

The last document listed could be used as an accession worker authorisation document from 1 January 2007 onwards for as long as the leave remained valid and the person was working in line with that leave.

European Union (EU), EU2 nationals working in line with one of these documents were called authorised workers

Other documents issued to EU2 nationals and their family members during the accession period

Other documents issued to EU2 nationals and their family members during the accession period could include:

- a yellow registration certificate, issued to EU2 nationals under worker authorisation but who were exercising free movement rights as a self-employed person, student or self-sufficient person
- a blue registration certificate, issued to EU2 nationals exempt from worker authorisation, confirming the holder had unconditional access to the UK labour market- 2 types of blue registration certificate:
 - half blue: issued to EU2 nationals who were exempt because they were a family member of another EU2 national who had a right of residence as a self-employed person, student, self-sufficient person, or authorised worker
 - full blue: issued to all other categories of exempt EU2 nationals
- family member residence stamps - issued to non- European Economic Area (EEA) national family members of EU2 nationals who were authorised workers
- residence cards - issued to family members and extended family members of EU2 nationals (except if the EU2 national was an authorised worker) they look the same as residence cards issued to other non-EEA national family members

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EU2 nationals background information

This page tells you the background information on European Union (EU), EU2 nationals and their accession to the EU.

Bulgaria and Romania (also known as the EU2 or EU2 countries) joined the EU on 1 January 2007. During the transitional period, which ended on 31 December 2013, EU2 nationals who wished to work in the UK needed to get an accession worker authorisation document from the Home Office before they started working, unless they qualified under an exemption.

The requirements which applied to EU2 nationals are set out in [the Accession \(Immigration and Worker Authorisation\) Regulations 2006](#) (as amended) (the Accession Regulations).

These restrictions did not apply to EU2 nationals who resided on a self-employed or self-sufficient basis, or as a student in the UK.

Before 1 January 2014, an EU2 national not exempt from worker authorisation:

- could not establish a right of residence as a jobseeker
- only had a right of residence as a worker when working in line with an accession worker authorisation document meaning:
 - they could not keep the status of worker under regulation 6(2) of the EEA Regulations if they become unemployed

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Permanent residence for Croatian nationals

This page tells you how to consider applications for a document certifying permanent residence from Croatian nationals.

Prior to 1 July 2018, Croatian nationals could exercise free movement rights in the UK, in the same way as other European Economic Area (EEA) nationals, only if they were:

- self-employed persons
- self-sufficient persons
- students

Croatian nationals could only exercise free movement rights as a worker if they obtained permission to do so in line with the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. However, since 1 July 2018, worker restrictions no longer apply and Croatians are free to work in the UK without authorisation in the same way as all other EU nationals.

Although Croatian nationals have only been able to exercise free movement rights in the UK since 1 July 2013, the judgment in the case of [Lassal \(C-162/09\)](#) established that time spent in a host member state by nationals of an accession state can count towards the qualifying period for a right of permanent residence provided the residence:

- was in line with domestic (UK) law
- satisfied the conditions of the relevant European law

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The Swiss agreement and posted workers

This page tells you about the Swiss agreement and posted workers.

The 2002 Swiss agreement allows a Swiss national or company that conducts business in the UK to send non-European Economic Area (EEA) national employees to provide services on their behalf in the UK for up to 90 days without needing permission to work.

People who come to the UK in this way are known as posted workers.

For a company to qualify, it must show that it complies with the law of Switzerland and has its registered office, central administration or principal place of business in Switzerland.

The posted worker must also have been previously legally resident and employed in Switzerland or an EEA country.

Family members are not allowed to accompany posted workers to the UK.

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