

ANNEX A

CABINET OFFICE

THE CIVIL SERVICE NATIONALITY RULES

Introduction

The Civil Service Nationality Rules concern eligibility for employment in the Civil Service on the grounds of nationality and must be followed by government departments and other bodies within the Home Civil Service and the Diplomatic Service in their recruitment and appointment procedures.

The United Kingdom restricts employment in its Civil Service to nationals of certain countries, but, unlike many other nations, not solely to its own nationals. There is a general statutory prohibition on the employment of aliens in the Civil Service except in certain circumstances. An “alien” is defined as any person who is not a British or Commonwealth citizen, a British protected person or an Irish citizen. The Civil Service Nationality Rules reflect the statutory provisions on the employment of aliens which are principally contained in the Aliens’ Employment Act 1955.

The eligibility of non-aliens for employment in the Civil Service is governed by the terms of the Civil Service Nationality Rules. In principle, non-aliens are eligible for employment in the Civil Service. However, additional nationality restrictions apply in relation to certain posts due to the sensitive nature of the work undertaken in those posts.

The Civil Service Nationality Rules cover eligibility for employment on the grounds of nationality in the Home Civil Service and the Diplomatic Service. Rules for the Home Civil Service are made by the Minister for the Civil Service under powers conferred by the Civil Service Order in Council 1995 (as amended). Similarly, rules applicable to the Diplomatic Service are made by the Secretary of State for Foreign and Commonwealth Affairs under powers in the Diplomatic Service Order in Council 1991 (as amended). The Civil Service Nationality Rules are issued by the Cabinet Office on behalf of the Ministers referred to above.

Enquiries concerning the application of the Civil Service Nationality Rules should be sent to the Cabinet Office at contact.us@csep.gov.uk.

This document was revised in January 2021 to reflect changes to the Civil

Service Nationality Rules as a result of amendments to the Alien's Employment Act 1955.¹ This follows the UK's departure from the European Union (EU) and the end of free movement.

The Cabinet Office is currently undertaking a wider review of the Civil Service Nationality Rules which may result in further changes to this document.

THE CIVIL SERVICE NATIONALITY RULES

Employment of Aliens in the Civil Service

1. There is a general statutory prohibition on the employment of aliens in the Civil Service.² An alien is any person who is not a British or Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland.³
2. There are certain exceptions to this prohibition which are set out in the Aliens' Employment Act 1955 ("the 1955 Act"). Aliens may be employed in the Civil Service only if the terms of the 1955 Act are satisfied.

Overseas Postings

3. The first exception relates to certain overseas postings. An alien may be appointed in any country or territory outside the United Kingdom, the Channel Islands or the Isle of Man to a post of a class or description which appears to the responsible Minister to be appropriate for the employment of aliens. This exception applies mainly to appointments to local staff postings in UK embassies and consulates overseas.

Aliens' Certificates

4. The second exception enables the employment of aliens under cover of an aliens' certificate issued by the department concerned, with the consent of the Minister for the Civil Service. The certificate can cover the employment of a particular individual in a specified service, or the

¹ Amendments were made by the Immigration and Social Security Coordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020.

² Act of Settlement 1700, s.3; Aliens Restriction (Amendment) Act 1919, s. 6.

³ See paragraphs 33 - 42 for further information on the definition of British, Irish and Commonwealth citizens, and British protected persons.

employment of aliens generally in a specified service or in service of a specified class or description.

5. An aliens' certificate may only be issued in relation to the employment of a particular individual in a specified service if no suitably qualified UK national is available for employment in that service, or if the alien possesses exceptional qualifications or experience for such employment.
6. Certificates covering employment generally in a service or a specified class or description of service may only be issued if no suitably qualified UK nationals are readily available, or available in sufficient numbers for employment in the service or class or description of the service specified in the certificate.
7. If a certificate is issued, the candidate must be given a conditional (nationality) appointment provided that the normal recruitment procedures for the grade are followed and the candidate is eligible in respect of age, health, character, knowledge and ability. In all cases, a certificate is only valid for a period of five years. On its expiry, the responsible Minister may issue a further certificate if the conditions described in paragraphs 5 and 6 above continue to apply. If the candidate subsequently becomes eligible for permanency, for example through naturalisation, the appointment may be converted to a permanent one.
8. Each financial year, the Cabinet Office lays before each House of Parliament a list containing particulars of all aliens' certificates in force during the previous financial year including the number of aliens employed under such certificates.

Relevant Europeans

9. The third exception provides for the employment of certain European Economic Area (EEA),⁴ Swiss and Turkish nationals (and certain members of their families with immigration rights irrespective of their nationality) to take up employment in the Civil Service in a non-reserved post.⁵
10. As a consequence of the end of EU free movement in the UK and the introduction of a new immigration regime, the rules about relevant Europeans who wish to work in the Civil Service after 1 January 2021 are

⁴ EEA nationals comprises nationals of EU member states and Iceland, Liechtenstein and Norway.

⁵ See paragraphs 25 - 30 on the definition of reserved and non-reserved posts.

different. See Cabinet Office guidance on *Changes to the Civil Service Nationality Rules from the 1 January 2021* for full details on the relevant statutory changes relating to the end of EU rules on free movement, and additional practical guidance.

EEA Nationals

11. References to 'EEA nationals' include nationals of EU Member States, Iceland, Norway and Liechtenstein.⁶ EEA nationals are eligible for employment in all non-reserved posts in the Civil Service where they meet the definition of a 'relevant European', as set out in the legislation.⁷
12. EEA nationals are therefore entitled to work in the Civil Service if they have:
 - I. Status under the EU Settlement Scheme (EUSS);⁸ or
 - II. limited or indefinite leave to remain granted by 31 December 2020⁹ (where they were eligible under the EUSS as of 31 December 2020, but did not need to apply because they had other leave to remain).

The 'Grace Period'

13. During the grace period (the period between the end of free movement, 11 pm on 31 December 2020, and the deadline for applications to the EU Settlement Scheme of 30 June 2021), the rights of those who were lawfully resident in the UK under EU free movement rules at the end of the transition period (31 December 2020) are protected, including their eligibility to work in the Civil Service.

⁶ EEA members currently are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

⁷ See section 1(1)(c) and (5) of the Aliens' Employment Act 1955, as amended by The Immigration and Social Security Coordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020.

⁸ Additional protections have been made for EEA nationals who were lawfully resident in the UK under free movement law at the end of the transition period but who have yet to obtain EUSS status. This is only applicable if an application was submitted prior to 30 June 2021 (see Paragraph 14 in *Changes to the Civil Service Nationality Rules from the 1st January 2021: Guidance & Departmental Actions*). Protections made in Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020

⁹ Implementation Period (IP) Completion Day. As defined in European Union (Withdrawal Agreement) Act 2020 s.39.

Swiss Nationals

14. Swiss nationals have the same entitlements as EEA nationals to take up employment in non-reserved posts in the Civil Service. The same eligibility requirements as paragraph 13 and 14 apply to Swiss nationals.

Turkish Nationals

15. Certain Turkish nationals are eligible for employment in non-reserved posts in the Civil Service. This is on the basis that an individual meets the definition of a 'relevant European', as set out in the legislation.¹⁰ Turkish nationals are entitled to work in the Civil Service if they previously had rights under the European Community Association Agreement (ECAA) as a Turkish worker (or as a family member of a Turkish worker),¹¹ which is demonstrated either by having or previously had ECAA worker leave that was granted by 31 December 2020 or as a result of an application made before that time, remain in the UK as a Turkish worker (of family member of a Turkish worker) and either;
- i. immediately before 31 December 2020 had an entitlement to take up any activity in the United Kingdom under Decision 1/80;¹² or
 - ii. they would have had an entitlement at a later date under Decision 1/80 but for the Act.¹³

Family Members

16. Family members of EEA nationals, who may not be EEA nationals themselves, have rights to take up employment in the Civil Service, in non-reserved posts if they have status under the EUSS or if they qualify

¹⁰ See section 1(1)(c) and (5) of the Aliens' Employment Act 1955, as amended by The Immigration and Social Security Coordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020.

¹¹ European Community Association Agreement (ECAA) is the Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963

¹² A Decision 1/80 entitlement means an entitlement to take up any activity as an employed person in the United Kingdom by virtue of rights derived from Article 6(1) or 7 (rights of certain Turkish nationals and their family members to take up any economic activity, whatever their nationality) of Decision 1/80 of 19 September 1980 of the Association Council set up by the ECAA, OJ No L361/1, 31.12.1977, p.29.

¹³ Turkish nationals with extant ECAA leave, or those who applied for ECAA rights by 31 December 2020 (where that application is successful), and would have otherwise at the point their status is being considered built up the right to work in the Civil Service in the future were it not for the Immigration and Social Security Coordination (EU Withdrawal) Act 2020, are eligible. This applies whether or not the individual had been working in the Civil Service by 31 December 2020.

as a UK national, British protected person, Irish national,¹⁴ or Commonwealth citizen. Family members of EEA nationals who do not have status under the EUSS are only eligible to work in the Civil Service if they qualify as a UK national, British protected person, Irish national, or Commonwealth citizen.

17. Certain family members of Swiss nationals may be eligible to take up employment in the Civil Service, provided they meet the same eligibility requirements as certain family members of EEA nationals (as outlined in paragraph 16 above).
18. Family members¹⁵ of Turkish workers are eligible for employment in non-reserved posts in the Civil Service if they applied for, or obtained ECAA leave by 31 December 2020 and either:
 - i. immediately before 31 December 2020 had an entitlement to take up any activity in the United Kingdom under Decision 1/80;¹⁶ or
 - ii. they would have had an entitlement at a later date under Decision 1/80 but for the Act.¹⁷
19. Family members of Turkish nationals who did not obtain rights under the ECAA by 31 December 2020 are only eligible to work in the Civil Service if they qualify as a UK national, British protected person, Irish national, or Commonwealth citizen.

Frontier Workers

20. The citizens' rights agreements protect the rights of EEA and Swiss nationals who are frontier working in the UK (that is, those who are

¹⁴ For determining citizenship of the Republic of Ireland, see the accompanying Guidance on the Civil Service Nationality Rules.

¹⁵ "Family member" includes the Turkish national's spouse and their descendants (children, including step-children, grandchildren, great-grandchildren) who are under the age of 21 years or are dependants, and dependent relatives in the ascending line (parents, grandparents, great-grandparents) of the worker and his spouse.

¹⁶ A Decision 1/80 entitlement means an entitlement to take up any activity as an employed person in the United Kingdom by virtue of rights derived from Article 6(1) or 7 (rights of certain Turkish nationals and their family members to take up any economic activity, whatever their nationality) of Decision 1/80 of 19 September 1980 of the Association Council set up by the ECAA, OJ No L361/1, 31.12.1977, p.29.

¹⁷ Turkish nationals with extant ECAA leave, or those who applied for ECAA rights by 31 December 2020 (where that application is successful), and would have otherwise at the point their status is being considered built up the right to work in the Civil Service in the future were it not for the Immigration and Social Security Coordination (EU Withdrawal) Act 2020, are eligible. This applies whether or not the individual had been working in the Civil Service by 31 December 2020.

employed or self-employed here and resident elsewhere) before the end of the transition period on 31 December 2020, for as long as they continue to be frontier workers. This may include those who are, or become, employed in the UK as a civil servant or who are, or become self-employed working in the UK.

21. Frontier workers can apply for and be issued with a frontier worker permit as confirmation of their right to enter and work in the UK, including as a civil servant. In most cases, the permit is issued as a digital document that can be accessed by the holder and shared with their employer as required. A small number of frontier workers will initially be issued with a physical permit. They will be able to show their physical permit to employers to prove their right to work in the UK.
22. After it becomes mandatory for frontier workers to hold a permit to enter the UK on 1 July 2021, employers will be able to check with the Home Office whether an EEA national holds a valid frontier worker permit.
23. We expect most frontier workers will choose to use a frontier worker permit to prove their right to work in the UK, as it is the simplest way to do so. However, they can choose to prove their status by other means to employers. The Home Office will set out in guidance what alternative evidence employers can request from EEA nationals to prove their right to work.
24. The Cabinet Office should be consulted in the event of any queries regarding the eligibility of a national of any of the above States, or the eligibility of their family members, to take up employment in the Civil Service.

Reserved Posts

25. The 1955 Act specifies in detail those public service posts which are to be reserved for UK nationals. These are referred to in the United Kingdom as “reserved posts”. Under no circumstances may other nationals or aliens be employed in a reserved post.
26. Posts within the security and intelligence services (that is, the Security Service, the Secret Intelligence Service, and the Government Communications Headquarters) are automatically reserved.
27. Other categories of posts are capable of being reserved if that is considered to be necessary (that is, that special allegiance to the Crown

is required in respect of that post such that the post must be held by a UK national). These categories of posts are:

- posts within the Defence Intelligence Staff within the Ministry of Defence;
- posts in Her Majesty's Diplomatic Service, the Foreign, Commonwealth and Development Office and the Defence Intelligence Staff which the responsible Minister considers needs to be held otherwise than by a relevant European;
- posts whose functions are concerned with:
 - i) (access to intelligence information received directly or indirectly from the security and intelligence services;
 - ii) access to other information which, if disclosed without authority or otherwise misused, might damage the interests of national security;
 - iii) access to other information which, if disclosed without authority or otherwise misused, might be prejudicial to the interests of the United Kingdom or the safety of its citizens;
 - iv) border control or decisions about immigration,

which the responsible Minister considers needs to be held otherwise than by a relevant European

28. If a post does not fall within these categories, then it is not capable of being reserved to UK nationals only. This means that any "relevant European" would be eligible to apply for such a post. These posts are therefore called 'non reserved' posts.

29. Where a post falls within one of the above categories (other than posts in the security and intelligence services) the relevant Minister must consider whether it is necessary to reserve that post for UK nationals only (that is, that special allegiance to the Crown is required in respect of that post such that the post must be held by a UK national). Where the relevant Minister does not consider that to be necessary, the post will not be reserved for UK nationals.

30. In relation to posts within the Diplomatic Service and the Foreign, Commonwealth and Development Office, it has been determined that

special allegiance to the Crown is required in respect of these posts such that it is necessary to reserve these posts to UK nationals.¹⁸ Relevant Europeans are not therefore eligible for employment in posts in the Diplomatic Service and the Foreign, Commonwealth and Development Office unless the responsible Minister decides otherwise in relation to a specified post or posts.

Employment of Non-Aliens in the Civil Service

31. Non-aliens, that is, UK nationals, British protected persons, and Irish and Commonwealth citizens, are not prohibited by statute from employment in the Civil Service.
32. However, the following rules and restrictions apply to non-aliens. Departments and other bodies forming part of the Home Civil Service and the Diplomatic Service must ensure that these rules and restrictions are complied with before appointment.¹⁹

UK Nationals

33. UK Nationals are in principle eligible for employment in all Civil Service posts. However, departments are entitled to impose additional requirements in reserved posts if this is considered necessary.²⁰ This could include, for example, requirements as to the residency of the applicant or the nationality of one or both parents of the applicant.
34. Family members of UK nationals (who are not themselves UK nationals and do not otherwise satisfy the Civil Service Nationality Rules) are not generally eligible to join the Civil Service unless they have status under the EUSS.
35. For posts in the Diplomatic Service and Home Civil Service posts in the Foreign and Commonwealth Office, individuals are only eligible if:
 - a. they are a British citizen; and
 - b. they have resided in the United Kingdom for at least two of the previous ten years immediately prior to their application, at least one year of which must have been a consecutive twelve-month period, unless they have served overseas with HM Forces or in

¹⁸ Additional requirements are imposed in posts in the Diplomatic Service and FCDO – see paragraph 35.

¹⁹ See the accompanying Guidance on the Civil Service Nationality Rules.

²⁰ See above paragraphs 25 to 30 on the definition of a “reserved post”.

some other official capacity as a representative of Her Majesty's Government, or have lived overseas as a result of their parents' or partner's government employment. A lack of sufficient background information may preclude them from being granted security clearance.

36. The definition of UK national is set out in the UK Declaration on Nationality, made with effect from 1 January 1983, and comprises: British citizens, British subjects under Part IV of the British Nationality Act 1981 having the right of abode in the United Kingdom, and British Overseas Territories citizens.²¹

British Protected Persons

37. The definition of British protected person is determined under the British Nationality Act 1981.²² It is expected that very few candidates will fall into this category. In practice, they will be required to show either a British passport which demonstrates their status as a British protected person or a letter from the Foreign and Commonwealth Office confirming their status.
38. British protected persons are eligible for employment in all non-reserved posts in the Civil Service. They are not eligible for employment in reserved posts.²³

Irish Nationals

39. Irish nationals²⁴ are eligible for employment in all non-reserved posts in the Civil Service. They are not eligible for employment in reserved posts.²⁵
40. The family members of Irish nationals who are themselves Irish nationals are to be treated in their own right in accordance with paragraphs 1.16 and 1.17 of the General Eligibility Guidance. The family members of Irish nationals who are not Irish nationals but are EEA or Swiss nationals are to be treated in the same way as other EEA and Swiss nationals. The family members of Irish nationals who are not EEA or Swiss nationals are also eligible for employment in non-reserved posts in the Civil Service in the

²¹ For further details see the accompanying Guidance on the Civil Service Nationality Rules.

²² See in particular sections 50 and 38 of the 1981 Act and the Home Office guidance on British Protected Persons: <http://www.ind.homeoffice.gov.uk/documents/nichapter54/>.

²³ See paragraphs 21–27 above on the definition of “reserved post”.

²⁴ For determining citizenship of the Republic of Ireland, see the accompanying Guidance on the Civil Service Nationality Rules.

²⁵ See paragraphs 21–27 above on the definition of “reserved post”.

same way as family members of other EEA nationals.²⁶

Commonwealth Citizens

41. A “Commonwealth citizen” is any person who has the status of a Commonwealth citizen under the British Nationality Act 1981. The territories forming part of the Commonwealth are listed in Annex B.²⁷
42. Commonwealth citizens are eligible for employment in all non-reserved posts in the Civil Service. They are not eligible for employment in reserved posts.²⁸ Family members of Commonwealth citizens are not eligible to join the Civil Service if they do not themselves satisfy the nationality rules.

Dual Nationality

43. Individuals with dual nationality are in principle eligible for employment in the Civil Service provided that they meet the requirements of these rules in relation to one of their nationalities. This does not apply however, in respect of those reserved posts where additional nationality requirements are imposed.²⁹

Equality Act 2010

44. The Civil Service Nationality Rules do not contravene the provisions of the Equality Act 2010, because paragraph 5 of Schedule 22 of the Act allows restrictions on the employment of foreign nationals in the civil, diplomatic, security and intelligence services. This exception also applies to certain public bodies, who are entitled to apply the Civil Service Nationality Rules. See Annex E. .

Stateless Persons

45. Stateless persons are not eligible for appointment to the Civil Service, even if they had past connections with the United Kingdom or the Commonwealth.

Refugees

46. A refugee does not automatically lose his or her nationality. It must either

²⁶ See paragraph 17 above concerning EEA family members.

²⁷ For determining citizenship of the Commonwealth see also the accompanying Guidance on the Civil Service Nationality Rules.

²⁸ See paragraphs 21– 27 above on the definition of “reserved post”.

²⁹ See above in paragraphs 25 - 30.

be taken away by the government of the country concerned, or the candidate must voluntarily renounce it. The Home Office (UK Visas and Immigration) should be consulted in the event of refugee candidates who claim to retain the nationality of origin.³⁰

³⁰ For further details see the Guidance on the Civil Service Nationality Rules.