**European Nationals (and their family members) in the UK – current options and rights**

This guide sets out a summary of the current registration options for European Economic Area (“EEA”) and Swiss nationals and their families residing in the UK (as at 1 May 2017). If you wish to apply for a particular immigration document, you should fully research the applicable requirements and your eligibility. Where required, legal advice should be sought. Please note that the specific requirements and processes applicable to Croatian nationals and their family members are different and fall outwith the scope of this guide.

Please ensure that you have read the Glossary annexed to this guide, as key terms are explained.

### REGISTRATION CERTIFICATES

**What are they?**

1. Registration Certificates are documents that can be obtained by EEA nationals and their family members who are applying in the UK to confirm rights of residence under EU freedom of movement law. They do not create new rights but confirm existing ones.

2. EEA nationals are not obliged to have a Registration Certificate but they can be useful to prove residence and the right to work in the UK. They can also facilitate the application process if a non-EEA national family member wishes to apply for residence in the UK.

**Who is eligible?**

3. The following individuals may be eligible to apply for a Registration Certificate:
   3.1 EEA nationals who are Qualifying Persons (“QPs”);
   3.2 EEA nationals with a Direct Family Member who is a QP;
   3.3 EEA nationals who do not have a Direct Family Member who is a QP but who have an Extended Family Member who is a QP; and
   3.4 Unmarried partners of QPs (apply as Extended Family Members).

**Who is a QP?**

4. A QP is someone who is an EEA national and is in the UK as a job-seeker, worker, self-employed person, self-sufficient person or a student. There are specific requirements for each category so please see the Glossary at Annex 1.

### RESIDENCE CARDS

**What are they?**

1. Third Country Nationals (“TCNs”) who are family members of EEA Nationals can apply from within the UK for confirmation of their rights of residence under EU Freedom of Movement regulations. As with Registration Certificates, Residence Cards confirm existing rights rather than granting any new ones.
2. Residence Cards are typically issued for a period of 5 years, although this can be shortened if there is a specific reason for doing so.

3. Residence Cards should be issued no later than 6 months from the date that an application is received by the Home Office. Most applications can be dealt with in around 4 months although there have been recent reports of delays. Applications for Derivative Residence Cards may take longer than 6 months.

Who is eligible?

4. TCN Direct Family Members of an EEA national have the right to accompany or join an EEA national for as long as the EEA national has a right to reside in the UK (including a permanent right of residence).

5. Please note that TCN Durable Partners and Extended Family Members of EEA nationals may be permitted entry and residence. This is at the discretion of the Home Office and is not a right.

6. A TCN Direct Family Member can also retain their right of residence in certain circumstances where they are:

   6.1 a TCN direct descendant in education and their EEA national relative has died, departed the UK or ceased to be a QP;

   6.2 a TCN spouse where their marriage or civil partnership with the EEA national has come to an end.

7. Certain other TCN family members may alternatively have Derivative Rights of Entry and Residence. Examples of these are given in the Glossary.

8. Where a TCN family member has obtained an EEA family permit (to enter the UK) and wishes to stay in the UK with the EEA national for longer than 6 months, they should apply for a Residence Card as soon as possible after they arrive in the UK. Those with Derivative Rights of Residence should apply for a Derivative Residence Card. The application process for Derivative Residence Cards is identical to the Residence Card process.

PERMANENT RESIDENCE

What is this?

1. Permanent Residence is where an EEA national and their family members acquire the right to permanently reside in the UK.

Who is eligible?

2. If an individual is an EEA national and has resided in the UK as a QP for a continuous period of 5 years or more, they can apply for confirmation of their right to Permanent Residence in the UK. Direct Family Members of EEA nationals who have resided legally in the UK, with an EEA national, for 5 years, will also acquire Permanent Residence.

3. If the family member of an EEA national retains a right of residence following divorce or the death or departure from the UK of the EEA national, they will be required to meet the conditions of being a QP for the balance of the 5 years before they can acquire Permanent Residence.
4. In limited circumstances Permanent Residence can be acquired early by workers or self-employed persons and their family members. Legal advice should be sought in this regard.

5. The 5 year period of continuous residence will be broken by absence from the UK of 6 months or more in any one year. However a 12 month absence is allowed if the absence is for an important reason such as pregnancy and childbirth, serious illness, study or vocational training, or an overseas posting.

6. Permanent Residence can be lost by absence from the UK of 2 or more consecutive years.

7. To apply for citizenship, it is essential that you have a Permanent Residence Card or other document certifying Permanent Residence.

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**CITIZENSHIP**

**What is this?**

1. Citizenship gives members of a state the ability to exercise civil and political rights in that state. Otherwise known as “nationality”, it gives individuals the same rights as those born as citizens. One of the most important rights is that citizenship allows individuals to live permanently in the United Kingdom. This right can only be revoked in very limited circumstances.

2. The Home Office aims to process all citizenship applications within 6 months of receipt, although following the referendum there may be delays in this process.

3. Before an applicant begins the process of applying for UK citizenship they should consider:

   3.1 whether the acquisition of British citizenship will affect another citizenship that they, their spouse or their children hold;

   3.2 their tax position in their country of origin; and

   3.3 any TCN family members who do not yet have Permanent Residence under the EU freedom of movement rules (obtaining citizenship may impact upon their right to remain in the UK under current free movement rules).

**Who is eligible?**

4. Individuals can become a British Citizen by:

   4.1 naturalisation; or

   4.2 if their spouse is a British citizen;

   and provided that various criteria are met in each case.

5. This Guide gives details on the naturalisation and marriage/civil partnership routes as these are more common. We have not covered Registration (which is dependant on birth in the UK or British parentage) in this guide. If you believe it may apply please seek legal advice.

6. **Naturalisation:** applicants can apply to become a British citizen by naturalisation if they:
6.1 are 18 or over;
6.2 are of good character, for example, they do not have a serious or recent criminal record, and have not tried to deceive the Home Office or been involved in immigration offences in the last 10 years;
6.3 will continue to live in the UK;
6.4 have met the knowledge of English and life in the UK requirements;
6.5 have lived in the UK for at least the 5 years before the date of their application;
6.6 have spent no more than 450 days outside the UK during those 5 years;
6.7 have spent no more than 90 days outside the UK in the last 12 months;
6.8 had settlement ("indefinite leave to remain") in the UK for the last 12 months if they are from outside the EEA;
6.9 had Permanent Residence status for the last 12 months if they are a citizen of an EEA country (they need to provide a Permanent Residence document) or a Permanent Residence Card if they are a TCN; and
6.10 have not broken any immigration laws while in the UK.

7. Marriage/civil partnership - if an applicant is married to, or the civil partner of, a British citizen, they can apply for citizenship if they:
7.1 are 18 or over;
7.2 are of sound mind and are able to think and make decisions for themselves;
7.3 are of good character, e.g. they do not have a serious or recent criminal record;
7.4 have met the knowledge of English and life in the UK requirements; and
7.5 are married to or registered as the civil partner of a British citizen at the date and time of the application.

8. Unless their spouse or civil partner works abroad either for the UK government or for an organisation closely linked to government, the applicant must typically also have:
8.1 lived in the UK for at least the 3 years before the application is received;
8.2 spent no more than 270 days outside the UK in those 3 years;
8.3 spent no more than 90 days outside the UK in the last 12 months;
8.4 not broken any immigration laws while in the UK; and
8.5 on the date you make the application they must be free of immigration time restrictions.

FURTHER INFORMATION

There is further information on the eligibility requirements and application processes on the government website, https://www.gov.uk/browse/visas-immigration/eu-eea-commonwealth. The application forms are also available from this page.

The contact details for UK Visas and Immigration are available https://www.gov.uk/contact-ukvi.
ANNEX 1: GLOSSARY

1. **Derivative Rights of Residence**

   1.1 Where you do not qualify for residence rights under free movement law but derive the right by other means. Examples include where you are:

      1.1.1 the primary carer of a British citizen child or dependent adult, and where requiring you to leave the UK would force that British citizen to leave the EEA;

      1.1.2 the primary carer of an EEA national child who is exercising free movement rights in the UK as a self-sufficient person, and where requiring you to leave the UK would prevent the EEA national child exercising those free movement rights;

      1.1.3 the child of an EEA national worker/former worker where that child is in education in the UK;

      1.1.4 the primary carer of a child of an EEA national worker/former worker where that child is in education in the UK, and where requiring you to leave the UK would prevent the child from continuing their education in the UK; or

      1.1.5 the dependent child (aged under 18) of a primary carer in one of the categories set out above, where requiring that you to leave the UK would force the primary carer to leave the UK with you.

2. **Direct Family Members** (also referred to as "Close Family Members" in some literature) are defined as:

   2.1.1 spouse or civil partner;

   2.1.2 a QP's (or their spouse or civil partner's) child or grandchild who is either under 21 or a dependant; or

   2.1.3 a QP's (or their spouse or civil partner's) dependent parent or grandparent.

3. **Durable Partners**

   3.1 You are likely to be considered as in a "durable relationship" where:

      3.1.1 you have been living with an EEA national in a relationship similar to a marriage for at least two years;

      3.1.2 you intend to live together permanently;

      3.1.3 you are not blood relatives; and

      3.1.4 any previous marriage or other similar relationship by either party has permanently broken down.

4. **European Economic Area ("EEA") Nationals**

   4.1 Nationals of all EU member states as well as Iceland, Liechtenstein, Norway and Switzerland. Switzerland is not in the EEA but Swiss nationals are entitled to the same rights in relation to free movement and residency.

5. **Extended Family Members**
A person is an Extended Family Member if they are a relative of an EEA national or a relative of their spouse/civil partner and the person is residing in a country other than the United Kingdom and is dependent upon the EEA national or is a member of their household; and

5.1.1 is accompanying the EEA national to the United Kingdom or wishes to join him there; or

5.1.2 has joined the EEA national in the United Kingdom and continues to be dependent upon him or to be a member of his household.

5.2 An Extended Family Member can also be:

5.2.1 a relative of an EEA national or their spouse/civil partner and, on serious health grounds, strictly requires the personal care of the EEA national their spouse/civil partner;

5.2.2 a relative of an EEA national who would meet the requirements in the immigration rules (other than those relating to entry clearance) for indefinite leave to enter or remain in the United Kingdom as a dependent relative of the EEA national were the EEA national is present and settled in the United Kingdom; or

5.2.3 the partner of an EEA national (other than a civil partner) and can prove to the decision maker that he is in a durable relationship with the EEA national.

6. Qualified Persons ("QPs"): An EEA national who is a worker, jobseeker, self-employed person, student or self-sufficient person:

6.1 A "worker" is a broad concept but generally means that the person carries out paid work activities for an employer. This can be part-time, including where income is supplemented by unemployment or sickness benefits. However the activities must not be "purely marginal and ancillary". The Home Office also apply a Primary Earnings Threshold, which is the level of earnings where employees pay class 1 National Insurance Contributions. If the individual earns less than this threshold then they will need to present clear evidence that their work activity is "genuine and effective".

There are also specific rules in relation to workers where you have ceased work temporarily, for example due to illness or pregnancy.

You will be able to retain worker status where you are recorded in involuntary unemployment after being employed in the UK for one year. You will need to register as a jobseeker and provide evidence that you are seeking employment and have a genuine chance of being engaged.

6.2 A "jobseeker" is an EEA national who has entered the UK since 1 January 2014, in order to seek employment, must satisfy the following conditions:

6.2.1 Condition A: the individual has entered the UK as a jobseeker or became a jobseeker, having previously been a QP under another category; and

6.2.2 Condition B: the individual must provide evidence that they are seeking employment and have a genuine chance of being engaged.

From 10 November 2014, as a jobseeker, the individual can be in the UK for up to 92 days seeking work. After that period they will have to provide "compelling evidence" that they are seeking work and have a genuine chance of being engaged. The 92 days is aggregated, so any previous periods of time spent in the UK as a jobseeker are counted (unless a full 12 months has passed between the periods spent in the UK). If you are seeking to count time that you spent in the UK as a job seeker then
please seek advice on the regulations applicable at the time that you were not working. The "aggregated period" has changed in length numerous times in the last few years.

6.3 A "self-employed person" is someone who carries out genuine and effective economic activities where they:

6.3.1 work outside of a relationship of subordination;
6.3.2 have responsibility and freedom to carry out the activities;
6.3.3 are registered with HM Revenue & Customs;
6.3.4 bear the risk for the success/failure of their work; and
6.3.5 are paid directly and in full.

The "Primary Earnings Threshold" discussed above (see 6.1) is also applied to self-employed persons.

Self-employed persons may temporarily cease working for certain reasons and still retain QP status, for example for illness, maternity or where new work is being sought.

6.4 A "student" is an individual who:

6.4.1 is enrolled at a private or public establishment, included on the Department for Education and Skills' Register of Education and Training Providers or financed from public funds, for the principal purpose of following a course of study, including vocational training;
6.4.2 has comprehensive sickness insurance cover in the United Kingdom; and
6.4.3 has sufficient resources so as not to become a burden on the social benefits system in the UK during their period of residence.

Evidence of "comprehensive sickness insurance" can be a European Health Insurance Card (not issued by the UK) or private medical insurance. However if an EEA student provides a European Health Insurance Card they also have to provide a "statement of intent" confirming that they do not intend to live permanently in the UK.

Family members of the student will also have a right of residence as long as they have comprehensive sickness insurance and there is evidence of sufficient resources to cover them as well.

6.5 A "self-sufficient person" is an EEA national who is not employed, self-employed or studying but can show they and, if relevant, their family members:

6.5.1 have comprehensive sickness insurance in the UK; and
6.5.2 have sufficient resources so as not to become a burden on the social benefits system in the UK during their period of residence.

7. Retained Rights of Residence: TCN family members of EEA nationals can retain rights of residence, even if their EEA family member or durable partner has died, left the UK or divorced their TCN spouse/partner.

8. Third Country National ("TCN") family members: Family members of EEA nationals who are not themselves from within the EEA and so do not automatically benefit from free movement rights.