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Brexit and EEA migrants in the UK



Which migrants are affected by Brexit?

Nationals of twenty-six of the twenty-seven EU countries have full access to the UK market under the free movement rules. The only exception is that Croatian nationals are still required to apply for a work permit for certain types of jobs.

Nationals of the three EEA countries who are not members of the EU, Norway, Lichtenstein and Iceland, also have full free movement rights, as do nationals of Switzerland.

For the time being it must be assumed that if the UK leaves the EU then without any other agreement being put in place or without a change in UK law, the right of nationals of all these countries, and their family members, will fall away.

What are the rules?

An EEA or Swiss national can come to the UK under EU treaties guaranteeing free movement provided that they are “exercising their treaty rights”. EEA or Swiss nationals who are exercising their treaty rights are “qualified persons” of which there are five main types:

- Job seekers (usually only up to 6 months)
- Workers/employees
- Self-employed workers
- Students
- Self-sufficient persons

There are specific criteria for each category which must be met.

Close family members (spouses, civil partners, children or grandchildren under the age of 21 and dependent parents) are entitled to enter and remain in the UK without any permit, provide their EEA or Swiss family member continues to exercise their treaty rights.

After living in the UK for five continuous years, EEA and Swiss nationals will automatically gain the right to permanently reside in

the UK. However, this will be lost if the EEA or Swiss national then leaves the UK for more than two years.

As there is no requirement for an EEA or Swiss national to apply for any kind of permit or confirmation that they are entitled to be here permanently, there are many who have been working in the UK for a number of years who do not hold any such confirmation.

What can you do to demonstrate your right to be in the UK?

If you have been here for less than 5 years:

You may be able to apply for a Residence Certificate to show that you are in the UK legally and show how long you have been in the UK.

If you have been in the UK for over 5 years:

You may be able to apply for a Permanent Residency Certificate. This demonstrates that you have the right to remain in the UK indefinitely (provided you do not subsequently leave for more than two years).

If you have been in the UK for over 6 years:

You may be able to apply for UK citizenship.

The application process

There are two ways in which you can apply for Residency Certificates or Permanent Residence Certificates., you can apply on the paper form or you can apply online.

The online application are being trialled, but the are still available for European national (not their non-EEA family members).

How can we help?

Please do not hesitate to contact us if you would like to be referred to a lawyer who could assist you in this matter.

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