

EEA Nationals and Brexit

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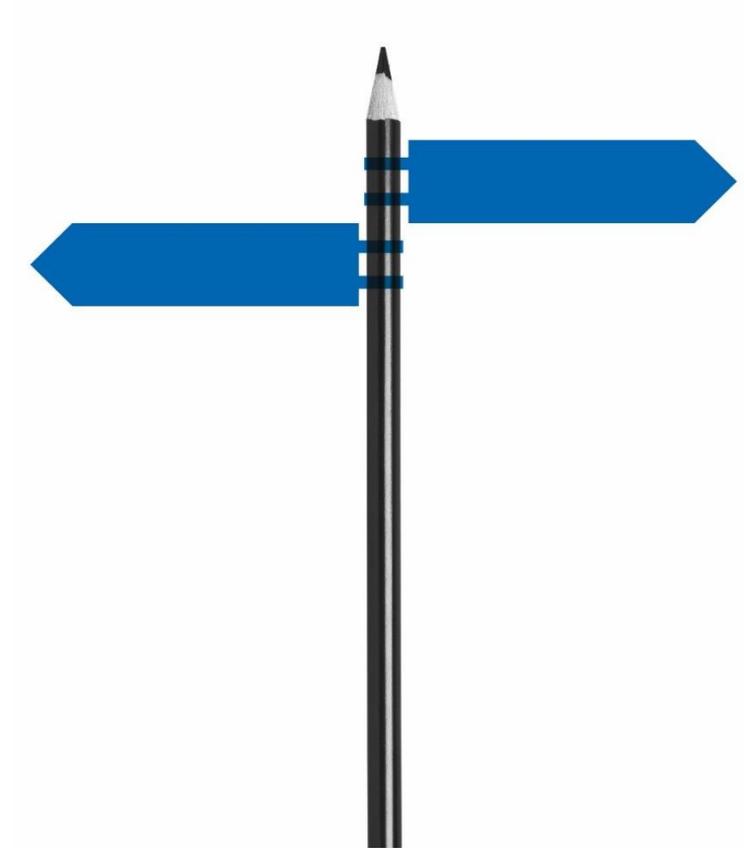
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Today's Agenda

- Purpose of this session
- Update on Brexit and immigration law
- Options for EEA nationals:
 - a. Qualified Person status
 - b. Permanent Residence
 - c. Family dependants
 - d. Naturalisation as a British citizen
- Questions and Answers

Purpose of today's clinic

	To explain current position in respect of Brexit and how this relates to free movement of EEA citizens
	To advise about the requirements of applications which confirm that free movement rights are being exercised
	To answer more general questions regarding this process and immigration whilst signposting the availability of advice



Brexit and free movement



The outcome of the referendum makes it likely that free movement between EEA countries and the UK will end.



What will happen after Article 50 notification and exit will depend on the mode of departure being chosen.



Nothing changes at present – EU rules about free movement are still in place.



For the future we can only:-

- speculate
- seek to explore that right EU and UK laws give EEA nationals present in the UK

EU Law - Summary

- Treaty of the Functioning of the European Union (TFEU)
- Directive 2004/38/EC – “Citizen’s Directive”
- Immigration (European Economic Area) Regulations 2006

What does free movement mean?

- Right of admission
- Right of residence if exercising Treaty rights:-
 - work (or looking for work)
 - self sufficiency
 - self employment
 - study
- Permanent residence:-
 - granted automatically after 5 years of living in the UK while exercising Treaty rights in qualifying category

How can an EEA national prove residence or permanent residence?

- Residence certificate / Residence card
- Permanent residence certificate /Permanent residence card

If they aren't necessary for EEA rights why might EEA nationals consider such an application now?

- Can't promise it will help but can be certain won't harm
- Assessing if right has been offered : house-keeping and due diligence

EEA Qualified Person (QP) Application

An EEA/Swiss national who is in the UK as a worker, or an otherwise self-sufficient person, student, or jobseeker.

Application fee is £65 and application form EEA (QP) should be completed (alternatives are possible)

If applying as a worker, need to show:



2 passport style photographs



Proof of identity – a valid passport or national identity card



Proof of employment – employer's declaration, wage slips or bank statements

When might a person consider applying?
Does it make permanent residence easier?

EEA Permanent Residence (PR) Application

Must normally have lived in the UK for a **continuous period of five years** as:

a 'qualified person'

a family member or extended family member of a qualified person or permanent resident (a sponsor), or

EEA Permanent Residence (PR) Application

- It is possible to amalgamate time spent in more than one category
- Need not be the most recent 5 years
- Where adding different categories together different documents are needed for each time period
- Cost of £65 per person (extra £19.20 for 3rd country nationals applying as family members re biometrics)
- Timeframes : 6 months +
- Document return service for on-line applications

<https://www.gov.uk/government/publications/european-passport-return-service-england>

EEA Permanent Residence (PR) Applications – how to apply

- EEA (PR)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/505032/EEA_PR_03-16.pdf

- EEA3

<https://portal.mpsv.cz/eures/podminky/britanie/eea31.pdf>

- Letter

<http://www.hr.admin.cam.ac.uk/hr-services/immigration/forms-guides-and-templates/eea-application-letters>

- Online – sole EEA applicant, and not if student or self sufficient

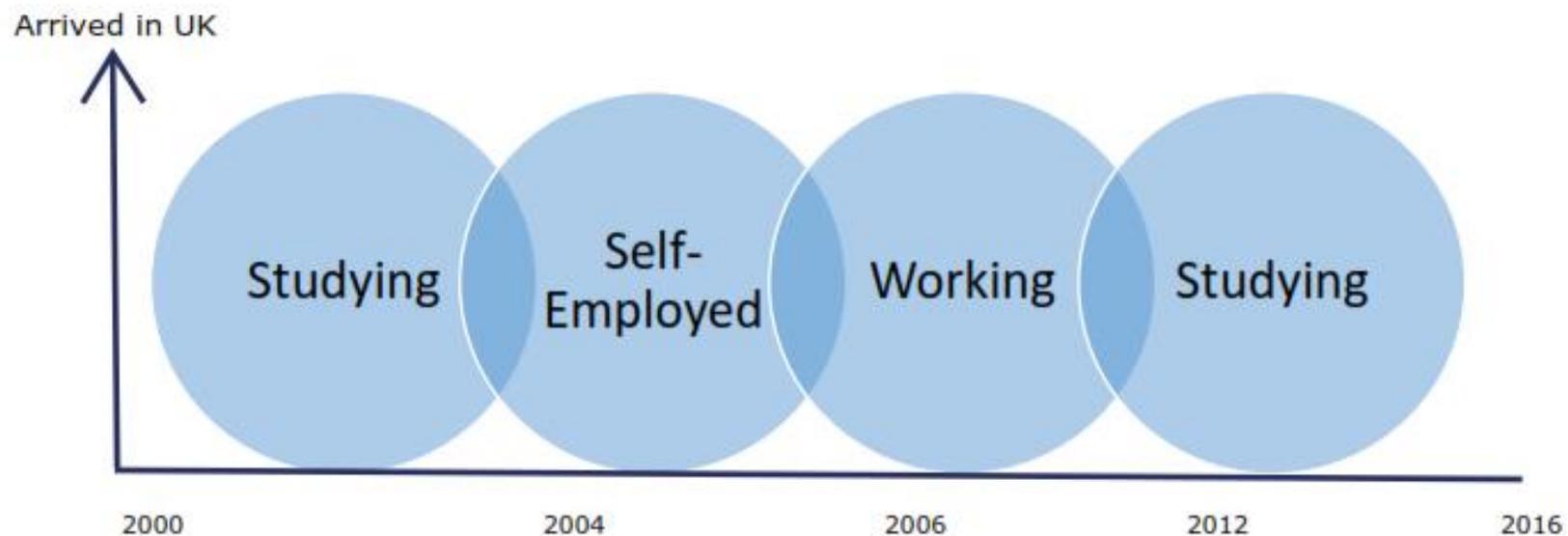
<https://visas-immigration.service.gov.uk/product/eea-pr>

If 2 or 3 use payment pages from EEA (PR) and, if 3rd county national, biometric pages

EEA Permanent Residence (PR) applications – what evidence do I need to include?

- Employment
 - letter from employer confirming work dates
 - P60 for each year
- Study
 - letter from school confirming dates of study
 - details of financial resources
 - Comprehensive health insurance

EEA Permanent Residence (PR) Application



Comprehensive Sickness Insurance – what is it?

- EU has an insurance based healthcare scheme which is not like the NHS.
- An EEA national living in the UK is allowed to use the UK's National Health Service.
- The Home Office has long argued that this does not count for the purposes of EU law as having comprehensive sickness insurance, though. This view was upheld in by the Court of Appeal in 2014.

Comprehensive Sickness Insurance – how can I meet this requirement?

1. Comprehensive private health insurance

- This will need to be “comprehensive” : The Government says it means full health insurance.
- The EEA (QP) guidance: “cover you (and your family members if applicable) for the majority of risks while you are in the UK”. This suggests that there may be gaps in cover allowed; after all, it does not say “all risks”.
- It will be a question of fact whether this bar in an individual case has been met. Once case found that a lack of cover for emergency treatment given in the UK meant that health insurance was not comprehensive.

2. Use a European Health Insurance Card

- The EEA(QP) form : European Health Insurance Card (EHIC) issued outside of the UK can be used as evidence of comprehensive sickness insurance.
- There are no decided cases about the issue so it is not possible to say for sure in what circumstances a EHIC will count.

Comprehensive Sickness Insurance – how can I meet this requirement?

3. Prove you are protected by reciprocal arrangements with your home EEA country

It is thought that the forms can be obtained retrospectively from the health provider in your country of nationality, i.e. that you can apply now for a form that provides cover for previous residence in the UK. Once obtained the form needs to be translated into English and sent to the following address:

Overseas Healthcare Team
Department for Work & Pensions
Durham House
Washington
Tyne and Wear

Comprehensive Sickness Insurance – how can I meet this requirement?

S1

(formerly E 106, E 109 and E 121 - still issued by some institutions)

Certificate of entitlement to healthcare if you don't live in the country where you are insured. Useful for cross-border workers, pensioners and civil servants and their dependants.

Contact your health insurance authority to find the relevant institution issuing the S1
Submit it to any health insurance authority in the country where you live.

S2

(formerly E 112)

Authorisation to obtain planned health treatment in another EU or EFTA country. You should be treated the same as a resident of that country - you may have to pay a percentage of the costs up front.

Health insurance authority
Submit it to the health insurance authority in the country where you go for treatment.

S3

Certificate of entitlement to healthcare in your former country of employment. Useful for retired cross-border workers who are no longer insured in their former country of employment.

Health insurance authority
Submit it to the health insurance authority of the country where you used to work as cross-border worker.

EEA Family Member (FM or EFM) Application

Dependant applicants must be:

-  the family member of a relevant EEA national (i.e. a 'qualified person')
-  spouse or civil partner of the relevant EEA national
-  dependant parent or grandparent of the relevant EEA national/British citizen, or of their spouse/civil partner

Need to show:

-  Passport, travel document or national identity card
-  Valid passport or national identity card for a sponsor
-  Proof of family relationship
-  Evidence of cohabitation
-  Evidence of dependency sometimes required

Naturalisation applications

This is a status which can only be removed in unusual circumstances

There may be an impact on holding existing citizenships alongside this status

Requirements of an application include:

freedom from immigration restrictions for the previous year;



five years' prior residence and no more than 450 days absence over the course of the past 5 years and no more than 90 days during the year immediately prior to the submission date



good character and passing Life and Language in the UK test.



Complete Form AN – by post or Nationality Checking Service

More expensive and slower to process than EEA applications

Children Born to Citizens of the European Economic Area

Children born in the UK to citizens of the European Economic Area may be British citizens depending on when they were born. Children born:

- Before to 2 October 2000 will be British citizens if either parent was living in the UK exercising Treaty rights at the time of the birth;
- From 2 October 2000 to 29 April 2006 will only be British citizens if at least one parent had obtained permanent residence **and** been issued with an official document by the Home Office confirming their permanent residence status in the UK dated before the child was born;
- On or after 30 April 2006 will be British citizens by birth if at least one parent lived have obtained permanent residency by exercising Treaty right for five years prior to the birth.

In addition there is the right to register the child as a British Citizen if one parent have obtained PR before the date of the child's birth.

EEA Spouse of British citizen

An EEA national in the UK who is married to a British citizen may have options open to them as a spouse but only if they do not have rights under the Regulations:

- can't pick and choose EEA or non EEA at will
- if you have EEA rights it may be best to stick with those and keep spouse route in your back pocket
- if EEA rights are in doubt now e.g student and no CSI then explore spouse route
- if EEA rights are engaged now but were in doubt in the past e.g no CSI for a period of study it may be best to stick with EEA route and keep spouse route in your back pocket

Useful links and contacts

- University's EEA FAQ: www.cam.ac.uk/eu
- UK Visas and Immigration – EEA Residence Card guidance: <https://www.gov.uk/apply-for-a-uk-residence-card>
- Government's statement on status of EEA nationals: <https://www.gov.uk/government/news/statement-the-status-of-eu-nationals-in-the-uk>
- Contact: ComplianceTeam@admin.cam.ac.uk

Questions

