



Home Office

# Treaty rights passport applications

## 5.0

Guidance for Her Majesty's Passport Office on how to deal with a passport application for a customer whose claim is through a European Economic Area national who exercised Treaty rights

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# About Treaty rights passport applications

This guidance tells Her Majesty's Passport Office operational staff about Treaty rights, including:

- what they are
- how they affect applications for British passports
- how to deal with a passport application for a customer whose nationality claim relies on a European Union (EU), European Economic Area (EEA) or Swiss national who exercised Treaty rights

It applies to customers born in:

- the UK from 1 January 1983 up to, and including 1 October 2000
- Jersey from 1 January 1983 up to, and including 30 March 2004
- Guernsey from 1 January 1983 up to, and including 30 September 2004
- the Isle of Man from 1 January 1983 up to, and including 8 February 2004
- UK, Jersey, Guernsey and the Isle of Man from 30 April 2006 up to, and including 30 June 2021

You must refer to:

- Treaty rights: born between 2 October 2000 and 29 April 2006 for customer's born in:
  - the UK from 2 October 2000 up to, and including 29 April 2006
  - Jersey from 31 March 2004 up to, and including 29 April 2006
  - Guernsey from 1 October 2004 up to, and including 29 April 2006
  - the Isle of Man from 9 February 2004 up to, and including 29 April 2006
- European Union Settlement Scheme for customers born on, or after 1 July 2021

If you are not sure how to deal with a Treaty rights passport application, you must discuss it, with:

- an operational team leader (OTL)
- the Quality and Examination Support team (if, after discussing the application with an OTL, you are still not sure how to deal with it)

When this guidance, mentions:

- EEA nationals, it means a citizen of a member state of the EU, EEA or Switzerland
- exercised Treaty rights, it means someone who exercised free movement rights in the UK

You may use this guidance in line with the following UK Visas and Immigration guidance:

- European Economic Area (EEA) and Swiss nationals: free movement rights
- European Economic Area nationals qualified persons
- Free movement rights: direct family members of European Economic Area (EEA) nationals
- Extended family members of EEA nationals guidance

## 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 Guidance & Quality, Operating Standards.

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 email Guidance & Quality, Operating Standards.

## Publication

Below is information on when this version of the guidance was published:

- version **5.0**
- published for Home Office staff on **12 November 2021**

## Changes from last version of this guidance

We have updated the guidance:

- between page 18 and 28 to:
  - make some formatting changes
  - make it clearer how to deal with first time, renewal and replacement Treaty rights passport applications, including what to do if you get a first time application without any Treaty rights evidence
  - make it clearer we must check renewal and replacement applications when an EU8 national exercised Treaty rights as a worker (to make sure they complied when the Workers Registration Scheme (WRS))
  - explain when we must reassess a renewal or replacement application a a first time application
- on page 37, 54 58, 62 and 67 to remove 'EEA residence permit' as evidence we'll accept to show an EEA national exercised Treaty rights (for customers born on or before 1 October 2000)
- on page 57 to include a new section for how to deal with an EEA national who registered on the Construction Industry Scheme
- on page 88 to explain from 1 July 2021 a document certifying permanent residence no longer gives an EEA national a right of residence in the UK

**Related content**  
[Contents](#)

# About Treaty rights

This section tells HM Passport Office about Treaty rights, including who were able to exercise them and how they affect British passport applications.

European Union (EU), European Economic Area (EEA) and Swiss nationals (and their family members) had certain rights under [Directive 2004/38/EC](#). One of them was the right to stay in the UK for up to 3 months without restrictions, as long as, they:

- held a valid national identity card or passport
- did not become a burden on the UK social assistance system (also known as the social system or benefits system)

Under EU law, EU, EEA and Swiss nationals could stay in the UK for longer than 3 months if they exercised Treaty rights. When they exercised Treaty rights for 5 consecutive years in the UK, they could apply for a permanent right of residence.

The UK left the EU on 31 January 2020 and entered into a transition period that ended on 31 December 2020. EU, EEA and Swiss nationals could exercise Treaty rights in the UK up to 31 December 2020 (and in some cases up to 30 June 2021).

When dealing with passport applications for children born in the UK on, or after 1 July 2021 whose nationality claim relies on an EU, EEA or Swiss national, you must refer to the European Union Settlement Scheme.

## Treaty rights for EU nationals

The following table shows countries that are members of the European Union (EU) and the date their nationals could exercise free movement rights from, for the purpose of their child's passport application.

Country	Date joined the EU
Austria	1 January 1995
Belgium	1 January 1983
Bulgaria	1 January 2007
Croatia	1 July 2013
Cyprus	1 May 2004
Czech Republic	1 May 2004
Denmark	1 January 1983
Estonia	1 May 2004
Finland	1 January 1995
France	1 January 1983
Germany	1 January 1983
Greece	1 January 1983
Hungary	1 May 2004
Republic of Ireland	1 January 1983

Italy	1 January 1983
Latvia	1 May 2004
Lithuania	1 May 2004
Luxembourg	1 January 1983
Malta	1 May 2004
Netherlands	1 January 1983
Poland	1 May 2004
Portugal	1 January 1986 for the self-employed 1 January 1992 for all other categories
Romania	1 January 2007
Slovakia	1 May 2004
Slovenia	1 May 2004
Spain	1 January 1986 for the self-employed 1 January 1992 for all other categories
Sweden	1 January 1995

## Treaty rights: UK

The UK was a member state of the EU from 1 January 1973 up until 31 January 2020 when it entered a transition period that ended on to 31 December 2020. EU, EEA and Swiss nationals could exercise Treaty rights in the UK up to 31 December 2020 (and in some cases up to 30 June 2021).

## Treaty rights: Cyprus

Unlike Cypriot nationals, nationals of the Turkish Republic of Northern Cyprus are not EU nationals. This means nationals of the Turkish Republic of Northern Cyprus could not exercise Treaty rights in the UK.

## Treaty rights: Spain and Portugal

Spanish and Portuguese nationals:

- were free to set up a business, become self-employed or provide (or receive) services in return for payment from 1 January 1986
- did not benefit from free movement of labour provisions until 1 January 1992 and anyone who wanted to start employment before this date, either:
  - needed a work permit
  - had to qualify for permit-free employment to enter the UK (in line with immigration laws)

This means Spanish and Portuguese nationals could exercise Treaty rights, from:

- 1 January 1986, if they exercised them as a self-employed person
- 1 January 1992, if they exercised them as, a:
  - worker
  - jobseeker
  - student

- self-sufficient person

## Treaty rights: Republic of Ireland

Irish nationals are automatically settled for nationality purposes from the date they started living in the UK.

If a customer's parent is an Irish national and living in the UK at the time they were born, they'll have a claim without the need for their parent to have exercised Treaty rights (regardless of how the parent gained Irish nationality).

## Treaty rights: EU8 and EU2 countries

We refer to some countries in the European Union (EU) as EU8 or EU2 countries:

- EU8 countries are:
  - Czech Republic
  - Estonia
  - Hungary
  - Latvia
  - Lithuania
  - Poland
  - Slovakia
  - Slovenia
- EU2 countries are:
  - Romania
  - Bulgaria

## Treaty rights: Croatia

Croatia joined the EU on 1 July 2013. This means a passport application for a child whose nationality claim relies on a Croatian national who exercised Treaty rights, will normally only have a claim if they were born on, or after 1 July 2018. However, they may have a claim before 1 July 2018 if the Croatian national meets the Ziolkowski ruling).

## Treaty rights for European Economic Area nationals

The European Economic Area (EEA) was established on 1 January 1994. Although there are membership differences between the EU and EEA, we treat EEA nationals in the same way as EU nationals for immigration, nationality and Treaty rights purposes.

All countries in the EU are members of the European Economic Area (EEA). The following table shows other countries that are members of the EEA and the date their nationals could exercise free movement rights from, for the purpose of their child's passport application.

Country	Free movement
Iceland	1 January 1994
Norway	1 January 1994
Liechtenstein	1 January 1995

## Treaty rights for Swiss nationals

Under the Switzerland-EU agreement that came into effect on 1 June 2002, Swiss nationals have the same rights as EU and EEA nationals. This means we treat them in the same way as EU and EEA nationals for immigration, nationality and Treaty rights purposes.

## Swiss workers posted in the UK

Swiss workers (including those recruited in Switzerland) who were posted in the UK by a Swiss-registered company (usually large banks such as Credit Suisse and the Union Bank of Switzerland), are exempt from Treaty right provisions. This means they were not able to exercise Treaty rights.

If you have doubts if someone in the UK is a Swiss posted worker, you must send a guidance query to Guidance & Quality, Operating Standards (using the Quality and Examination Support team (QuEST) referral process).

## Treaty rights for territories an EU or EEA country

Some countries may be a territory of a European Union (EU) or European Economic Area (EEA) country but are not a member of the EU or EEA. For example, Greenland and the Faroe Islands are a territory of Denmark, however, they are not part of the EU or EEA. Therefore, nationals of Greenland and Faroe Islands could not exercise Treaty rights in the UK.

If you are unsure if a territory is part an EU or EEA country, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEST referral process).

## How EU, EEA and Swiss nationals could exercise Treaty rights

European Union (EU), European Economic Area (EEA) and Swiss nationals will usually have exercised Treaty rights in 1 (or more) of the following ways:

- as a worker
- as a jobseeker
- as a self-employed person
- as a student (only from 30 June 1992)
- as a self-sufficient person for example, someone who is retired (only from 30 June 1992)

- as a provider of services in line with Article 60 of the EC Treaty or as a receiver of services in line with Article 60 of the EEC treaty (only for passport applications for customers born on, or before 1 October 2000)

EU, EEA and Swiss nationals could change how they exercised Treaty rights (for example, they can change from a jobseeker to a worker).

## EU, EEA or Swiss nationals born elsewhere

Someone born in another country may gain the citizenship (or have dual nationality) with a European Union (EU) or European Economic Area (EEA) country or Switzerland. Although we consider them to be an EU, EEA or Swiss national for Treaty rights passport applications, we must be satisfied they were an EEA national:

- at the time the customer was born
- when they exercised Treaty rights

## Treaty rights and family members

The direct family member of an EU, EEA or Swiss national has the right to live in the UK, as long as the EU, EEA or Swiss national:

- was in the UK (and remained in the UK)
- exercised Treaty rights

The extended family member of an EU, EEA or Swiss national has the same residency rights as a direct family member, as long as they have a residence document to confirm it.

## How Treaty rights affect a passport application

You may get a Treaty rights passport application, when:

- a customer born in the UK applies for a passport for themselves and their parent is either:
  - an EU, EEA or Swiss national
  - the family member of an EU, EEA or Swiss national
- an EU, EEA or Swiss national parent applies for a passport for their child who was born in the UK
- the family member of an EU, EEA or Swiss national applies for a passport for their child who was born in the UK

Regardless who makes the application, the customer's nationality claim will rely on the EU, EEA or Swiss national who exercised Treaty rights. For example, if the customer's parent, is:

- an EU, EEA or Swiss national, their nationality claim will rely on their EU, EEA or Swiss national parent who exercised Treaty rights

- the family member of an EU, EEA or Swiss national, their nationality claim will rely on the EU, EEA or Swiss national who exercised Treaty rights

A customer may have a claim to British citizenship ([under section 1\(1\)\(b\) BNA81](#)), if they meet all of the following criteria:

- they were born in:
  - the UK from 1 January 1983 up to, and including 1 October 2000 or from 30 April 2006 up to, and including 30 June 2021
  - Jersey from 1 January 1983 up to, and including 30 March 2004 or from 30 April 2006 up to, and including 30 June 2021
  - Guernsey from 1 January 1983 up to, and including 30 September 2004 or from 30 April 2006 up to, and including 30 June 2021
  - the Isle of Man from 1 January 1983 up to, and including 8 February 2004 or from 30 April 2006 up to, and including 30 June 2021
- they were born to a parent who, is:
  - an EU, EEA or Swiss national
  - the family member of an EU, EEA or Swiss national
- the EU, EEA or Swiss national can demonstrate they exercised Treaty rights:
  - at the time the customer was born (for customer's born from 1 January 1983 up to, and including 1 October 2000 in UK, (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 the Isle of Man))
  - for a 5 consecutive year period before the customer was born (for customers born from 30 April 2006 up to, and including 30 June 2021)

## Related content

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# Effect of the UK leaving the EU (ending of free movement)

This section tells HM Passport Office operational staff about the impact on Treaty rights passport applications when the UK left the European Union (EU).

The transition arrangements in place for the UK leaving the European Union (EU) came to an end at 11pm on 31 December 2020. At this time, the [Immigration and Social Security Coordination \(EU Withdrawal\) Act 2020](#) replaced the [Immigration \(EEA\) Regulations 2016](#). This ended a European Economic Area (EEA) nationals' right of free movement in the UK.

Unless an EEA national meets an exception allowing them to continue to rely on EU free movement rights, it means from 11pm on 31 December 2020, they:

- no longer have free movement rights under Directive 2004/38/EC
- cannot rely on a right of entry to the UK under the Immigration (European Economic Area) Regulations 2016 (they must have an alternative legal basis to enter the UK instead)

EEA nationals living in the UK on 31 December 2020 who are not already British citizens or have indefinite leave to remain, had to apply the European Union Settlement Scheme (EUSS) if they wanted to remain in the UK after 30 June 2021. This includes EEA nationals who:

- may already have a right of permanent residence (through exercising Treaty rights)
- have a document certifying permanent residence

The deadline to apply to the EUSS was 30 June 2021.

If there's reasonable grounds to, UK Visas and Immigration (UKVI) may accept late applications.

The UK leaving the EU does not affect passport applications for customers born on, or before 31 December 2020. You must continue to deal with their Treaty rights passport application (in line with this guidance).

## Who can rely on Treaty rights after 31 December 2020

If a child was born from 1 January 2021 up to, and including 30 June 2021, their passport application can still rely on an EEA national who exercised Treaty rights. These rules are different if a child was born on, or after 1 July 2021.

## Child born between 1 January 2021 and 30 June 2021

From 1 January 2021 up to and including 30 June 2021 (known as the grace period), EEA nationals already living in the UK on 31 December 2020 could continue to exercise Treaty rights.

If a customer was born from 1 January 2021 up to, and including 30 June 2021, their nationality claim can still rely on an EEA national who exercised Treaty rights, if both of the following apply:

- the EEA national who the nationality claim relies on, was resident in the UK on 31 December 2020
- the EEA national who the nationality claim relies on, did not already have the right of permanent residence in the UK at the time the customer was born, including if, they:
  - made an application for the EUSS that's still being processed
  - were granted pre-settled status through the EUSS
  - were granted indefinite leave to remain (ILR), indefinite leave to enter (ILE) or No Time Limit (NTL) after the customer was born

When dealing with an application for a customer born from 1 January 2021 up to, and including 30 June 2021, you:

- do not need evidence to show the EEA national whose nationality claim relies on, was living in the UK on 31 December 2020, unless there's evidence to suggest they were not – if you need evidence to show an EEA national was living in the UK on 31 December 2020, you may accept:
  - rent or mortgage agreements
  - bank statements
  - utility bills
- must deal with the application and apply the same Treaty rights guidance we do for customers born on, or after 30 April 2006

## Treaty rights: child born on, or after 1 July 2021

In most cases, the right of permanent residence (through exercising Treaty rights) ended on 30 June 2021. However, an EEA national can still rely on a right of permanent residence when all of the following apply:

- they were permanently living in the UK on the 31 December 2020
- they exercised Treaty rights for 5 continuous years before 30 June 2021
- UKVI received their EUSS application on, or before 30 June 2021 that was unsuccessful (this means UKVI processed the application but did not grant the parent with ILR)

When dealing with an application for a child born on, or after 1 July 2021 to an EEA national, you must refer to the European Union Settlement Scheme.

## If an EEA national made an application to the EUSS

If a European Economic Area (EEA) national made an application to the European Union Settlement Scheme (EUSS), you must refer to the European Union Settlement Scheme guidance. This is because an EEA national may not need to demonstrate they exercised Treaty rights (depending on the outcome of their EUSS application).

You must be aware, when UKVI consider an EEA national's EUSS application, they:

- ask for evidence to show the EEA national lived in the UK for 5 continuous years
- do not ask for evidence to show the EEA national exercised Treaty rights

If you get a Treaty rights passport application for a customer whose nationality claim relies on an EEA national who applied for the EUSS and was granted pre-settled status or granted ILR after they were born, you must:

1. Deal with the application in line with this guidance.
2. Ask for evidence to show the EEA national exercised Treaty rights for the full qualifying period.

### Related content

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# How to deal with a Treaty rights passport application

This section tells HM Passport Office operational staff how to deal with passport applications for a customer whose claim is through a European Economic Area (EEA) national who exercised Treaty rights.

From 1 March 2021, we introduced a process for a dedicated resource team in each application processing centre (APC) to deal with all first time Treaty rights passport applications. The aim of the process is to improve the quality of decision making in HM Passport Office.

## When you get a Treaty rights passport application

When you, the examiner get a Treaty rights passport application, you must check if the European Economic Area (EEA) national (who the nationality claim is through) had:

- indefinite leave to remain (ILR) through the European Union Settlement Scheme (EUSS) before the child was born (if the child was born between 28 August 2018 and 30 June 2021)
- ILR other than through the EUSS, indefinite leave to enter, no time limit or was granted a right of permanent residence before the child was born, using:
  - any evidence the customer provided with the application
  - the UKVI system

This is because a child may already have a nationality claim without needing to deal with the application as a Treaty rights application (see European Union Settlement Scheme and British citizenship guidance).

If at the time the child was born the EEA national did not have ILR, ILE, NTL or a right of permanent residence, you must check if the application meets the criteria that means you need to refer it to the dedicated resource team.

If the application does not meet the criteria for referral to the dedicated resource team, you must deal with it in line with current guidance (to assess identity, nationality and entitlement).

If the application meets the criteria, you must:

1. Complete standard examination of the application (in line with current guidance).
2. Set the complexity indicator (for applications on the Application Management System (AMS))
3. Send AMS letter 594 to the customer (if the application is on AMS). If the application is on the Digital Application Processing (DAP) system, you must

create the letter manually and email it to the customer (using the AMS letter template):

4. Check if the application came with any evidence to show to EEA national exercised Treaty rights.

## Application came with Treaty rights evidence

If the application came with Treaty rights evidence, you must refer the application to the dedicated resource team by:

- using the agreed local process in your office (for applications on AMS)
- clicking **I can't do this** (for applications on DAP)

## Application did not come with any Treaty rights evidence

If the application did not come with any Treaty rights evidence and the application is on DAP, you must refer the application to the dedicated resource team by clicking **I can't do this** (for applications on DAP).

If the application did not come with any Treaty rights evidence and the application is on AMS, you must:

1. Send the customer the Treaty rights triage letter by email from your team's mailbox, making sure you use the correct table (depending on if the child was born on, or before 1 October 2000 or on, or after 30 April 2006). This letter asks the customer how they exercised Treaty rights and will allow you to ask the customer for the correct evidence.
2. Scan the Treaty rights triage letter onto the application as a permanent record (see How to keep scans of supporting documents).
3. Allow 1 week for the customer to reply to the Treaty rights triage letter.

If the customer does not respond to the Treaty rights triage letter within 1 week, you must refer the application to the dedicated resource team by:

- using the agreed local process in your office (for applications on AMS)
- clicking **I can't do this** (for applications on DAP that have a DAP Treaty rights task)

If the customer responds to the Treaty rights triage letter, you must:

1. Add a case note to show details of the response, including:
  - the date the customer said they started living in the UK (for applications for children born on, or after 30 April 2006)
  - a summary of how they exercised Treaty rights
  - any other important information the customer supplied
2. Check if their response shows an indication there is no claim (for example, the application is for a child born on, or after 2006 but the response shows their EEA parent has not been living in the UK for 5 years before they were born).

If the response:

- indicates the customer has no claim to British nationality, you must refer to Refusing passport applications and passport facilities
- indicates the customer has a claim to British nationality, you must refer the application to the dedicated resource team by:
  - using the agreed local process in your APC for applications on AMS
  - clicking **I can't do this** (for applications on DAP)

## Dedicated resource team referral criteria

You must refer any application to the Treaty rights dedicated resource team if the intended passport holder's claim is through an EEA national who exercised Treaty rights and the application meets both of the following criteria:

- the application is:
  - for a first passport
  - to renew or replace a passport and we need to reassess it as first time application as there's evidence we incorrectly issued the original passport under Treaty rights (see How to process renewal or replacement Treaty rights applications)
- customers who were born, in:
  - the UK from 1 January 1983 up to, and including 1 October 2000
  - Guernsey from 1 January 1983 up to, and including 1 October 2004
  - Jersey from 1 January 1983 up to, and including 9 February 2004
  - Isle of Man from 1 January 1983 up to, and including 31 March 2004
  - the UK, Guernsey, Jersey or the Isle of Man from 30 April 2006 up to, and including 30 June 2021

There are some applications closely linked to Treaty rights you must not refer to the dedicated resource team. These are customers who:

- have an EEA national parent who was:
  - naturalised as British before the customer was born
  - otherwise settled before the customer was born (for example, they were granted indefinite leave to enter (ILE), indefinite leave to remain (ILR) or no time limit (NTL))
  - granted a right of permanent residence in the UK that was previously accepted by UK Visas and Immigration (UKVI) (under the [Immigration \(European Economic Area\) Regulations 2006](#) or the [Immigration \(European Economic Area\) Regulations 2016](#))
  - registered as British Citizens with UKVI
- apply to renew or replace their passport that we previously assessed under Treaty rights

## What the dedicated resource team will do

When the dedicated resource team get a Treaty rights referral, they must follow their separate guidance that explains, the:

- dedicated resource examiner must deal with the application up to the point of making a final decision (using this guidance) before referring it to their operational team leader (OTL)
- OTL must record the application:
  - on a central spreadsheet and
  - work with Quality Examination Support team (QuESt) to review the application (using a case conference, if they need to)
  - deal with the Treaty rights passport application (see How to process a Treaty rights passport application)

QuESt may send a query to Guidance & Quality, Operating Standards if they need more advice or support.

## How to process first time Treaty rights passport applications

The dedicated resource team deal with first time Treaty rights passport applications.

If the application is on DAP, the system will identify possible Treaty rights applications and create a Treaty rights task based on:

- where the customer and their parents were born
- the nationality of the customer's parents
- when the customer was born

You must decide if the DAP is a Treaty rights application by checking the documents that came with the application. If you decide the application on DAP is not a Treaty rights passport application, you must:

1. Select **No**.
2. Add a case note to explain the actions and decisions you made.
3. Click **Save**.

If you decide the application on DAP is a Treaty rights passport application, application or the application is on AMS, you must check if the EEA national who the claim is through, already has ILR, ILE, NTL or was granted a right of permanent residence (using the evidence they gave or the UKVI systems). If they did and they were granted it before the customer was born:

- the application is not a Treaty rights passport application and you do not need evidence the EEA national exercised Treaty rights
- you must deal with the application in line with the:
  - British citizenship guidance
  - European Union Settlement Scheme (for children born between 28 August 2018 and 30 June 2021 whose parent was granted ILR under the EUSS)

If the EEA national did not have ILR, ILE or NTL at the time the customer was born, you must:

1. Set the correct complexity indicator on the application (if it is not already set and the application is on AMS).
2. Consider if any decisions about an EEA national have been made by an immigration court or tribunal.
3. Check you have evidence to show:
  - the relationship between the customer and the EEA national (for example, a birth certificate)
  - the EEA national's nationality
4. Check the EEA national exercised Treaty rights for the correct qualifying period. To do this, you must refer to:
  - Treaty rights: worker (if the EEA national exercised Treaty rights as a worker)
  - Treaty rights: jobseeker (if the EEA national exercised Treaty rights as a jobseeker)
  - Treaty rights: self-employed person (if the EEA national exercised Treaty rights as a self-employed person)
  - Treaty rights: self-sufficient person (if the EEA national exercised Treaty rights as a self-sufficient person)
  - Treaty rights: student (if the EEA national exercised Treaty rights as a student)
5. Send a guidance query to Guidance & Quality, Operating Standards (using the QuEst referral process) to ask them how to deal with the application, if the EEA national exercised Treaty rights as a:
  - provider of services in line with Article 60 of the EC Treaty (only for applications for children born on, or before 1 October 2000)
  - receiver of services in line with Article 60 of the EEC Treaty (only for applications for children born on, or before 1 October 2000)
6. Refer to Treaty rights: family members (if the customer's claim is through the family member of an EEA national).

## Treaty rights application: asking for Treaty rights evidence

If you need to ask the customer for Treaty rights evidence and the application is on:

- AMS, you must send the correct letter, for example, AMS letter:
  - 586 (for customers born on, or before 1 October 2000)
  - 585 (for customers born on, or after 30 April 2006)
  - 579 (if you need evidence an EU2 national met the Accession State Worker Registration Scheme conditions)
- DAP, you must select **Not sure, need new documents** and send the customer an email to ask for the information you need, using the Comms builder (see How we communicate with customers)

## Treaty rights application: making a decision on the application

Once you have the information you need and you are dealing with an application on AMS, you must:

1. Use all of the evidence and information to assess the application (in line with this guidance).
2. Refer:
  - the application to the Counter Fraud team (if you have fraud or safeguarding (child protection) concerns)
  - to Treaty rights: customer has a claim (if the customer has claim)
  - to Treaty rights: no claim (if the customer does not have a claim)
  - to Treaty rights: lack of evidence or loss of contact (if the customer could not give you the evidence you need or you lost contact with them)

Once you have the information you need and you are dealing with an application on Treaty rights: customer has a claim on DAP, you must:

1. Use all of the evidence and information to assess the application (in line with this guidance).
2. Select:
  - **Delay decision on this task**, add a case note and click Save (if you cannot make a decision because you need to email the customer as part of another DAP task first)
  - Refer for investigation, add a case note and click Save (if you have fraud or safeguarding (child protection) concerns)
3. Refer to:
  - Treaty rights: customer has a claim (if the customer has claim)
  - Treaty rights: no claim (if the customer does not have a claim)
  - Treaty rights: lack of evidence or loss of contact (if the customer could not give you the evidence you need or you lost contact with them)

### Treaty rights: customer has a claim

If you are satisfied from the Treaty rights evidence the customer has claim and the application is on AMS, you must:

1. Add the correct case notes to the application.
2. Send AMS letter 591 to make the EEA national aware of the EUSS (if the EEA national is not already a British citizen or does not have ILR).

If you are satisfied, from the Treaty rights evidence, the customer has a claim and the application is on DAP, you must:

1. Create a manual letter using AMS letter 591 and email it to the customer (if the EEA national is not already a British citizen or does not have ILR).
2. Select Yes, I've completed examination.
3. Add the correct case notes to the application.
4. Click Save.

### Treaty rights: no claim

Before you refuse an application, you must be satisfied the customer does not have a claim. You must consider if, the:

- EEA national who the nationality claim is through, does not already have a right of permanent residence (by checking UKVI systems)
- customer has a claim through the other EEA national parent (as they may have exercised Treaty rights or already gained a right of permanent residence) - you must only do this if both of the following apply:
  - the other EEA national parent is named on the application
  - the other EEA national parent provided supporting documents (as this gives you implied consent to check their details on UKVI systems)

If you are satisfied the customer does not have a claim and the application is for a first passport on AMS, you must:

1. Add a case note to the application.
2. Refuse the application.
3. Send AMS letter:
  - 592 (if the customer was born on, or before 1 October 2000)
  - 612 (if the customer was born on, or after 30 April 2006 up to, and including 30 June 2021)

If you are satisfied the customer does not have a claim and the application was to renew (or replace) a passport on AMS, you must refer to withdrawing passport applications and passport facilities.

If you are satisfied the customer does not have a claim and the application is for a first passport on DAP, you must:

1. Select **No**.
2. Add the correct case notes to the application.
3. Click **Save**.
4. Deal with the application as part of the DAP nationality task (the nationality task allows you to check how a customer has a nationality claim and withdraw their application if they do not have one).

If you are satisfied the customer does not have a claim and the application is to renew (or replace) a passport on DAP, you must transfer the application to AMS and add a case note to explain the customer does not have a claim.

You, the AMS examiner, must deal with the application in line with the withdrawing passport applications and passport facilities guidance.

### **Treaty rights: lack of evidence or loss of contact**

If the customer cannot provide the Treaty rights evidence you need (and they could not provide alternative evidence) or you lost contact with them, you must:

1. Add the correct case notes to the application.
2. Withdraw the application.
3. If you did not lose contact with the customer, you must also send AMS letter:
  - 592 (if the customer was born on, or before 1 October 2000)

- 612 (if the customer was born on, or after 30 April 2006 up to, and including 30 June 2021)

## How to process renewal or replacement Treaty rights applications

Some customers may apply to renew (or replace) a passport we originally issued through Treaty rights.

If you are dealing with the renewal or replacement application on DAP and there is a Treaty rights task (a task will always show on a child renewal if any of the child's parents were born in, or are a national of, an EEA country), you must:

- review the passport history
- check if passport history shows we issued the original passport through Treaty rights

If we did not issue the original passport through Treaty rights, you must:

1. Select **No**.
2. Add a case note to explain the actions and decision you made.
3. Click **Save**.
4. Continue to process the application in line with current guidance.

If we issued the original passport through Treaty rights, you must refer to When you deal with renewal or replacement Treaty rights applications (as there are some Treaty rights applications we need to re-check).

If you are dealing with the renewal or replacement application on DAP and there is no Treaty rights task, or you are dealing with the application on AMS, you must refer to When you deal with renewal or replacement Treaty rights applications (as there are some Treaty rights renewals applications we need to re-check).

## When you deal with renewal or replacement Treaty rights applications

When processing a renewal or replacement application, you must check if there's an indication we assessed the original claim through an EU8 national who exercised Treaty rights as a worker. This is because we need to reassess certain applications to see if the EU8 national registered on the WRS. An indication could be when:

- there are documents listed on this or the previous application relating to an EU8 national
- there's a DAP Treaty rights task (a task will always appear on a child renewal if the child was born on, or after 30 April 2006 to parents who were born in an EEA country)
- when you check a child's parent has parental responsibility and find the parent is an EU8 national

As part of any renewal or replacement application, you may need to check the customer's passport history (for example, when other guidance tells you to). When you do these checks, you'll need to take further action if there's evidence we made an error when we assessed the original claim through Treaty rights. Clear evidence:

- means there is something present in the passport history to show an error was definitely made, for example:
  - there's a case note that explains a parent exercised Treaty rights as a student but was unable to provide evidence they had comprehensive sickness insurance
  - there's a case note that explains a parent exercised Treaty rights as self-sufficient person, but they were over reliant on UK social assistance payments (also known as public funds or benefits)
- does not mean situations where you believe (or assume) we could have made an error but there is no evidence to definitely show we did, for example, there is a case note that explains we issued the passport because the parent exercised:
  - Treaty rights as a student but the case note does not explain what evidence we used (as there is no evidence to show we definitely issued the passport incorrectly)
  - Treaty rights but it does not explain how they did (as there is no evidence to show we definitely issued the passport incorrectly)

## No previous Treaty rights or WRS errors

If we issued the original passport through Treaty rights and there's no evidence we made an error and you do not need to check if an EU8 national previously registered on the WRS, you must:

1. Continue to deal with application (in line with current guidance). If the application is on DAP with a Treaty rights task, you must clear it by:
  - selecting **Yes, I've completed examination**
  - adding a case note to explain the actions and decisions you've made
  - clicking **Save**
2. Send AMS letter 591 (to explain the EEA national may need to make an application to the EUSS). If the application is on DAP, you must manually create AMS letter 591 and email it to the customer.
3. Add a case note to the application to explain the actions and decision you've made.

## Previous Treaty rights or WRS error

If we made an error on the original Treaty rights application because we did not previously check if an EU8 national registered on the WRS, you must refer to WRS: completing checks to deal with the application. You'll need to transfer the application to AMS if it's on DAP and as part of the WRS: completing checks guidance, you need to use UKVI systems but you do not have access.

If you can issue the passport without having to write to the customer to ask for WRS evidence or reassessing the Treaty rights claim, you must:

1. Continue to process the application in line with current guidance. If the application is on DAP with a Treaty rights task, you must clear it by:
  - Selecting **Yes, I've completed examination**
  - adding a case note to explain the actions and decision you made
  - Clicking **Save**
2. Send AMS letter 591 (to explain the EEA national may need to make an application to the EUSS). If the application is on DAP, you must manually create AMS letter 591 and email it to the customer.
3. Add a case note to the application to explain the actions and decision you've made.

However, if the WRS: completing checks guidance tells you to write to the customer for WRS evidence or to reassess a Treaty rights claim, you must refer the application to an OTL (as the dedicated resource team will deal with the application).

If we made an error on the original Treaty rights application but it was not because we did not previously check if an EU8 national registered on the WRS, you must refer the application to the dedicated resource team. This is because the dedicated resource team will need to reassess the application as a first time Treaty rights application.

## Treaty rights: immigration court and tribunal decisions

In some cases, the outcome of an immigration court or tribunal appeal may rule an EEA national gained the right of permanent residence.

When dealing with an application that includes decisions made by immigration courts or tribunal appeals, you must:

4. Send a guidance query to Guidance & Quality, Operating Standards to ask them how to deal with the application (using the QuEST referral process).
5. Wait for Guidance & Quality, Operating Standards to respond.

Guidance & Quality, Operating Standards will check with policy teams if you can accept a decision made by an immigration court or tribunal appeal (as they may be subject to further challenges).

## Treaty rights: checking an EEA's nationality

You must be satisfied about a European Economic Area (EEA) national's nationality. Evidence we'll accept to show someone is an EEA national, are:

- a passport
- an identity card (you must carefully check the nationality shown on the identity card)
- a registration or naturalisation certificate

- UKVI documents showing they're a national of an EEA country, such as accession worker authorisation documents (only if you can confirm them using UKVI systems)
- an official document (for example, from a consulate) that confirms when they became an EEA national

You must carefully check the document to make sure it shows someone is an EEA national. This is because the document does not confirm someone is a national of that country if:

- it only says they are a resident of that country
- they have an alien passport (a passport issued by a country to a non-national resident who is stateless or unable to get a passport from the country they are a national of (for example, refugees))

A birth certificate on its own is not proof of nationality.

## EEA national born outside EEA country they're a national of

If a European Economic Area (EEA) national was born outside of the EEA country they're a national of, you must be satisfied they were an EEA national before the start of the qualifying period. This means the document they use to confirm they're an EEA national must, either:

- have been issued to them before the start of the qualifying period
- confirm when they became an EEA national (so you can check they became an EEA national before the start of the qualifying period)

## EEA national born in an EEA country they're a national of

If a European Economic Area (EEA) national supplies a document showing they are a national of an EEA country they were born in, it does not matter if it was issued to them:

- before the qualifying period
- during or after the qualifying period (as long as there's no other evidence to suggest they may not have been national of the EEA country)

## Treaty rights: when to set the complexity indicator

You must set a complexity indicator when dealing with a Treaty rights passport application on AMS and either of the following apply:

- the application is for a first passport
- the application is to renew (or replace) a passport and you need to reassess it as we made an error on the original application, for example, because:
  - you need to carry out checks on the WRS (if we previously did not do it)
  - the EEA national needed CSI and the passports notes on the original application show they did not have it

To set the complexity indicator on AMS, you must:

1. Select the **Prepare Passport** tab.
2. Click on the **Set Complexity** drop down menu (in the **Links tab** section on the right hand side of the screen).
3. Select **ENTITLEMENT** from the list.
4. Select **TREATY RIGHTS** from the list.

If you do not set the correct complexity indicator, you will receive a quality check fail.

## Treaty rights: what case notes to use

When you deal with a Treaty rights passport application, you must include the following mandatory case note:

[Mother or Father] held EU – [include country] nationality atob & for full qualifying period: [Y or N]

Evidence from [Mother or Father] exercising TR [date] to [date]

[Mother or Father] exercised TR as [Worker, Jobseeker, Self Employed, Student, Self Sufficient, Dependent of Family Member, including who the family member is and the relationship]

[Mother or Father] required CSI during qualifying period: [Y or N, including reasons]

[Mother or Father] required to register on WRS scheme: [Y, N or Exempt, including reasons]

[Mother or Father] required permission to work in UK before qualifying period: [Y, N or Exempt, including reasons]

[Mother or Father] required to register on WRS scheme and met all requirements for full qualifying period

[Mother or Father] [exempt from or required to register on] WRS scheme and met all requirements for full qualifying period

Registration required as did not qualify under WRS. Reg cert No: [certificate number] Issued: [DD/MM/YYYY]

WRS case – Reg Cert No: [certificate number] conf regularised [status], on [date]

If you refuse or withdraw an application, you may tailor the mandatory case note to fit the application's situation. For example, if you refuse an application because an EEA national:

- could not provide evidence they were an EEA national:
  - all of the mandatory case notes will not be relevant
  - your case note must clearly explain you refused the application because the parent could not provide evidence to show they were an EEA national
- provided evidence to show they were a student for the 5 year qualifying period and they needed CSI but did not have it:
  - you must include the mandatory cases notes that are relevant (such as about the parents nationality, about the evidence relating to them being a student for 5 years, about WRS was not being needed and about CSI being needed)
  - your case note must clearly show you refused the application as the EEA national needed CSI but could not provide it

Your case note must also show:

- clear reasons why you refused or withdraw an application
- what evidence you used as part of the application, including the types of document and the differences between them (for example, '5xP60's for 2012 to 2013, 2013 to 2014, 2014 to 2015, 2015 to 2016, and 2016 to 2017')
- the customer has a claim under section 1(1)(b) BNA81 (if the customer has a claim through an EEA national who exercised Treaty rights)
- all the actions and decisions you made during the application process
- details of the EEA national's income levels you used to assess the claim (for example, when deciding if employment is genuine and effective) – the case note must, show:
  - why you assessed the income levels (for example, to help you decide if employment is genuine and effective)
  - the amount of income and where it came from (for example, the 2014 – 2015 P60)
  - who the income relates to (the name of the EEA national)

## Treaty rights: qualifying periods

For a customer to have a claim, the EEA national who the nationality claim relies on, must have exercised Treaty rights for the correct period of time (known as the qualifying period). This depends on when the customer was born.

### Qualifying period: customer born on or before 1 October 2000

The EEA national who the nationality claim relies on must have exercised Treaty rights at the time the customer was born, if the customer was born in:

- the UK from 1 January 1983 up to, and including 1 October 2000
- Jersey from 1 January 1983 up to, and including 30 March 2004
- Guernsey from 1 January 1983 up to, and including 30 September 2004
- the Isle of Man from 1 January 1983 up to, and including 8 February 2004

## Qualifying period: customer born on or after 30 April 2006

If a customer was born on, or after 30 April 2006, the EEA national who the nationality claim relies on, must have exercised Treaty rights for at least 5 consecutive years before they were born. It does not have to be the 5 years directly before the customer was born.

EEA nationals did not have to exercise the same Treaty right during the 5 year qualifying period, for example, they could have exercised Treaty rights as, a:

- worker for the full 5 years
- student for the first 2 years and as a worker for the remaining 3 years
- self-employed person for the first 4 years and as a worker for the remaining year

This means the evidence you get to show an EEA national exercised Treaty rights can be from different sources.

If the customer's claim is through the family member of an EEA national, the EEA national must have exercised Treaty rights for 5 consecutive years before the customer was born. However, there are occasions when the family member may be regarded as having gained the right of permanent residence even when the EEA national did not exercise Treaty rights for 5 consecutive years (see Free Movement Rights: retained rights of residence).

If an EEA national who exercised Treaty rights as a worker or self-employed person stopped working, we may still consider them to be exercising Treaty rights (see retaining worker or self-employed person status and worker or self-employed person who has ceased activity).

## First 3 months residence as part of qualifying period

If an EEA national began exercising Treaty rights within the first 3 months of living in the UK, you can accept their initial period of residence as part of the qualifying period, as long as they:

- supplied evidence to show when they started living in the UK (for example, proof of travel to the UK and they were living in UK, such as registering at a doctors or rental agreements)
- were not a burden on the UK social assistance system

For example, if an EEA national provided evidence to show they started living in the UK on 1 April 2010 and began exercising Treaty rights, on:

- 1 June 2010, there will not be a gap between the 3 month initial right of residence and the date the EEA national started to exercise Treaty rights – this means you:
  - can accept the period between 1 April 2010 and 1 June 2010 as part of the qualifying period

- will only need evidence they exercised Treaty rights from 1 June 2010 to 1 April 2015
- 1 August 2010, there will be a gap between the end of the initial 3 month period right of residence and the date the EEA national started to exercise Treaty rights – this means you:
  - cannot accept any period between 1 April 2010 and 1 August 2010 as part of the qualifying period
  - will need evidence they exercised Treaty rights from 1 August 2010 for 5 consecutive years

## When UKVI withdraw permanent residency

We may have issued a passport to a customer because UK Visa and Immigration (UKVI) granted the EEA national who the nationality claim relies on, the right of permanent residence. If UKVI withdraw it (for example, because they applied for it fraudulently), you must refer to withdrawing passports and passport facilities.

### Related content

[Contents](#)

# Treaty rights: worker

This section tells HM Passport Office operational staff how to deal with passport applications for customers whose nationality claim relies on a European Economic Area (EEA) national who exercised Treaty rights as a worker.

How we deal with an application when a European Economic Area (EEA) national who exercised Treaty rights as a worker, depends on if a customer was born:

- on, or before 1 October 2000 in the UK (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) as:
- the principle law in place at the time was the Immigration Act 1971
- [The Immigration \(European Economic Area\) Order 1994](#) explains how someone who exercised Treaty rights would not be subject to immigration control
- on, or after 30 April 2006, as The Immigration (European Economic Area) Regulations 2006 was in place at the time (amended by [The Immigration \(European Economic Area\) Regulations 2016](#) and [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#))

You must refer to:

- Treaty rights: born between 2 October 2000 and 29 April 2006 if the customer was born from:
  - 2 October 2000 up to, and including 29 April 2006 in the UK
  - 31 March 2004 up to, and including 29 April 2006 in Jersey
  - 1 October 2004 up to and including 29 April 2006 in Guernsey
  - 9 February 2004 up to, and including 29 April 2006 in the Isle of Man
- European Union Settlement Scheme if the customer was born on, or after 1 July 2021

## About Treaty rights applications for workers

A worker is someone who is employed part-time or full-time, usually in return for payment of wages (but in some cases can be return for living expenses or accommodation).

## Treaty rights worker: genuine and effective work

There's no minimum number of hours an EEA national must work to qualify as a worker. However, the work they do, must:

- be genuine and effective
- not be marginal or ancillary

Effective work may not have a formal contract offer, but it should have:

- something that is recognisable as a labour contract
- an employer
- agreements between an employer and employee that the employee will perform certain tasks
- confirmation the employer will pay or offer services (for example, accommodation or goods) for the tasks an employee will carry out

## What marginal or ancillary work means

Marginal means the work involves so little time and money that it's unrelated to the lifestyle of the worker. Work is ancillary if the worker is clearly spending most of their time on something else and not work. For example, a student who works in a student union bar for 2 hours per week, is a student (as their work is marginal and ancillary to their role as a student).

## Workers who got paid cash in hand

If an EEA national got paid cash in hand, it does not mean they did not exercise Treaty rights as a worker (as long as they meet all other Treaty rights conditions in line with this guidance, including that they were in genuine and effective work).

You may identify someone got paid cash in hand if they tell you they did or they provide hand written pay slips.

## How to assess if work is genuine and effective

You must assess each application on a case by case basis to decide if the EEA national's work is genuine and effective.

An EEA national's work is likely to be genuine and effective if it meets Her Majesty's Revenue and Customs (HMRC) primary earning threshold (PET). This is the point at which an employee must pay class 1 National Insurance contributions. GOV.UK shows, the:

- PET levels for the [current years](#)
- PET levels for [previous years](#)

If an EEA national's income is less than the PET, or there's no PET level for the year the EEA national was working, it does not mean their employment is not genuine and effective. Instead, you must decide if their employment is genuine and effective taking in to account:

- if there's a genuine employer and employee relationship
- if there's an employment contract
- if the work is regular
- how long they have been employed for
- the number of hours they worked

## P60s shows a decrease in earnings

When assessing evidence to show an EEA national exercised Treaty rights as a worker, you may get 5 P60s, all of which are above the PET level with 1 that shows a significant decrease in earnings, for example:

- 2013 – 2014 P60 amount is £50,000
- 2014 – 2015 P60 amount is £48,000
- 2015 – 2016 P60 amount is £12,000
- 2016 – 2017 P60 amount is £52,000
- 2017 – 2018 P60 amount is £47,000

This could be a sign the EEA national stopped work or was out of the UK. You must contact the customer to investigate why the P60 amount was lower. If they tell you they:

- stopped working, you must refer to Treaty rights worker: stops working
- were temporarily out of the UK, you must refer to Treaty rights: break in residence
- were working throughout the year, you must check if their work was genuine and effective

## Treaty rights worker: stops working

If an EEA national stopped working, we may still consider them to have exercised Treaty rights (see retaining worker or self-employed person status and worker or self-employed person who has ceased activity).

If an EEA national is temporarily incapacitated and returns to work, you may still be able to consider them a worker (see retaining worker or self-employed person status). This includes someone who was working before being temporarily incapacitated who then received Jobseekers Allowance (as the Department for Work and Pensions will be satisfied they were able to work).

The retaining worker status following pregnancy guidance explains an EEA national can retain worker status if they were unable to remain in employment during the later stages of pregnancy. This is when they return to their previous job or find another job (including self-employed work) within a reasonable time.

## Treaty rights worker: charity work

An EEA national doing charity or voluntary work, including ministers of religion:

- will not qualify as a worker if they did unpaid charity work (they may still have exercised Treaty rights if they are self-sufficient)
- may qualify as a worker if the work involved taking part in the commercial activities of the charity for which they received payments in the form of living expenses or accommodation

## Treaty rights worker: au pairs

Au pairs are nannies who work for a family. They:

- are usually treated as a member of the family
- are not entitled to the National Minimum Wage
- do not get paid holidays
- may get pocket money instead of a salary

Au pairs may not be able to provide evidence of earnings to show they were in genuine and effective employment. However, you can consider them to be a worker if you get evidence to show they were an au pair, for example a letter, reference or contract that shows:

- an agreement between them and the family to show:
  - what their role or tasks were
  - when they worked for the family
- the family paid for goods or provided services (such as free accommodation) for the work they did

If an au pair cannot provide evidence of an agreement between them and the family they worked for or what goods and services they received in the form of a salary, you must consider if they could have exercised Treaty rights as a self-sufficient person.

## Treaty rights worker: Guernsey, Jersey and Isle of Man

If a customer is born in the UK, the EEA national who the nationality claim relies on, will not have exercised Treaty rights if they were working in Guernsey, Jersey or the Isle of Man (as they'll not have been working in the UK).

## Worker: customer born on, or before 1 October 2000

A customer born on, or before 1 October 2000 (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) will have a claim if at the time of their birth, the EEA national who the nationality claim relies on, was issued with:

- a Home Office letter confirming they were living in the UK in line with the Immigration (European Economic Area) Order 1994 or the immigration rules that were in place at that time

If a customer supplies one of these, you must:

1. Check the UK Visas and Immigration systems (UKVI) to make sure it is genuine and have not been revoked (cancelled). If you have doubts, it is genuine or suspect UKVI issued it in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the Quality and Examination Support team (QuEST) referral process).
2. Not ask for any further Treaty rights evidence.

3. Continue to process the application.

If a customer does not supply any of these, we need evidence the EEA national exercised Treaty rights as a worker at the time they were born. This is any of the following:

- payslips or P60's
- HMRC employment history statements showing employment start and end dates, pay and tax
- letters from an employer or a contract of employment that show employment start and end dates, together with payslips or P60s

If a customer needs to ask HMRC for information or evidence, you must allow them enough time to provide it, before you withdraw their application (see withdrawing passport applications).

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a worker at the time the customer was born and they were in genuine and effective employment. If the customer does not supply evidence the EEA national was working at the time they were born, you must:
  - ask for alternative evidence that show the EEA national was working at the time they were born
  - ask them to get a signed letter from the EEA national that explains what their working circumstances were at the time they were born (if the customer cannot supply alternative evidence)
  - accept annual statement's (such as P60's) that show it was likely the EEA national was working for the full tax year the customer was born in (for example, a P60 showing £30,000 income is likely to mean an EEA national was working for the full year)
  - refer to balance of probabilities to decide if it is more likely than not the EEA national was working at the time the customer was born (using the evidence they gave us)
2. Check if the EEA national's evidence is from a Swiss registered company (as Swiss workers posted in the UK are exempt from the provisions of Treaty rights).
3. Check Companies House to see if the EEA national's employer exists. If it does not, you must ask for other evidence to show the EEA national was working.
4. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
5. Check if the EEA national is a retained worker or ceased activity (if they stopped working).
6. Continue to process the Treaty rights passport application.

## **Worker: customer born on, or after 30 April 2006**

A customer will have a claim if before they were born, their parent was issued with a:

- document certifying permanent resident
- permanent residence card (for customers whose parent is the non-EEA national family member of an EEA national)

If you get any of these, you must:

1. Check the UKVI system to make sure the right of permanent residence was granted before the child was born, they are genuine and have not been revoked. If you have doubts they are genuine or suspect UKVI issued them in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEST referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide a document certifying permanent residence or a permanent residence card and the EEA national exercised Treaty rights as a worker during the 5 year qualifying period, we need evidence to show they did. This is any of the following:

- payslips or P60's
- HMRC employment history statements showing employment start and end dates, pay and tax
- start and end dates, together with payslips or P60s

If a customer needs to ask HMRC for information or evidence, you must allow them enough time to provide it, before you withdraw their application (see withdrawing passport applications).

If the EEA national was an:

- EU2 national working between 1 January 2007 and 31 December 2013 or a Croatian national working between 1 July 2013 and 30 June 2018, we also need either of the following:
  - a Registration Certificate (known as a Home Office blue card)
  - all Accession State Worker Scheme Cards (purple cards) together with P60s, P45s and wage slips to confirm they were working with the named employer on the cards, covering the first 12 months of employment
- EU8 national who was working between 1 May 2004 and 30 April 2009, we also need either of the following:
  - a Registration Certificate (known as a Home Office blue card)
  - all Accession State Worker Registration Scheme Certificates together with P60s, P45s and wage slips to confirm they were working with the named employer on the certificates, for the first 12 consecutive months

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a worker during the 5 year qualifying period and they were in genuine and effective employment.
2. Check if the EEA national exercised Treaty rights other than as a worker during the 5 year qualifying period. If they were and it was as, a:
  - jobseeker, you must refer to Treaty rights: jobseeker
  - self-employed person, you must refer to Treaty rights: self-employed person
  - self-sufficient person, you must refer to Treaty rights: self-sufficient person
  - student, you must refer to Treaty rights: student)
3. Check if you can count periods of residence before the EEA national's country joined the EEA (see Treaty rights: Ziolkowski ruling).
4. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
5. Refer to Treaty rights: break in residence (if there's a gap in the EEA national's evidence or there's evidence to suggest they have been out of the UK for 2 or more years).
6. Check if the EEA national's evidence is from a Swiss registered company (as Swiss workers posted in the UK are exempt from the provisions of Treaty rights).
7. Check Companies House to see if the EEA national's employer exists. If it does not, you must ask for other evidence to show the EEA national was working).
8. Check if the EEA national is a retained worker or ceased activity (if they stopped working).
9. Refer to Treaty rights: authorisation to work, if the EEA national is:
  - an EU8 national who started work between 1 May 2004 and 30 April 2009 (as you must check they had the correct authorisation to work)
  - an EU2 national who started work between 1 January 2007 and 31 December 2013 (as you must check they had the correct authorisation to work)
  - a Croatian national who started work between 1 July 2013 and 30 June 2018 (as you must check they had the correct authorisation to work)
10. Continue to process the Treaty rights passport application.

## **Related content**

[Contents](#)

# Treaty rights: authorisation to work

This section tells HM Passport Office operational staff when a European Economic Area (EEA) national who exercised their Treaty rights as a worker needs the correct authorisation to be legally working in the UK. It also tells them how to check they had the correct authorisation.

There were transitional arrangements in place when EU8 countries, EU2 countries and Croatia joined the European Union (EU). It meant nationals from these countries needed authorisation when they started work for it to be legal.

## EU8: authorisation to work

A transitional arrangement was in place from 1 May 2004 to 30 April 2009 for EU8 nationals who wanted to start work in the UK during this time. Unless they were exempt, they had to register their employment on the Workers Registration Scheme (WRS) within 30 days of starting work. If they did not, they would not be legally working.

The first 30 days of employment was considered legal. This means an EU8 national did not need to register their employment on the WRS if it was for less than 30 days. However, if they expected their employment to last more than 30 days, they had to register it on the WRS. As long as they registered their employment (or made an application to) in the first 30 days of starting work, they would be legally working.

When an EU8 national registered on the WRS for 12 months without a break of no more than 30 days and they were working in the UK at the start and end of the 12 months, they:

- became exempt from registering further employment on the WRS
- could apply for a Registration Certificate (also known as a Home Office Blue Card) as a worker under the EEA regulations (although it was not compulsory)

If an EU8 national applied for a Registration Certificate, they may have given their Accession State WRS Registration Card and Accession State WRS Registration Certificates to UK Visas and Immigration (UKVI). You must not confuse a Registration Certificate with an Accession State WRS Registration Certificate.

The WRS ended on 30 April 2009 and there was no requirement for EU nationals to register employment on the WRS after this date (it was extended to 30 April 2011 but in June 2019, the Supreme Court ruled the extension unlawful).

## When an EU8 national registers on the WRS

When an EU8 national registered on the Workers Registration Scheme (WRS) for the first time, they were issued with an:

- Accession State WRS Registration Card, showing the date of issue and the EU8 national's:
  - photo
  - name
  - date of birth
  - nationality
  - reference number
- Accession State WRS Registration Certificate, showing the date of issue and the EU8 national's:
  - name
  - date of birth
  - nationality
  - reference number
  - job start date
  - employer name and address

You can check Accession State WRS Registration Cards and Accession State WRS Registration Certificates on the UKVI system.

The Accession State WRS Registration Certificate does not show the date the EU8 national registered on the WRS.

You can find examples of the Accession State WRS Registration Card and Accession State WRS Registration Certificate in Knowledge Base.

## If an EU8 national changed employer

If an EU8 national changed employer during the first 12 months of employment, they had to register their new one on the WRS within the 30 days of starting with their new employer. When they did, they:

- were issued with a new Accession State WRS Registration Certificate
- did not get a new Accession State WRS Registration Card

This means you may get:

- 1 Accession State WRS Registration Card
- more than 1 Accession State WRS Registration Certificate

## EU8 national changed employer in last 30 days of 12 month period

As an EU8 national had 30 days to register employment on the WRS, you can accept they completed 12 months legal employment on the WRS if both of the following apply:

- they registered their first employment on the WRS within 30 days of starting work
- they changed job within the last 30 days of the 12 month period but did not register it on the WRS

## If an EU8 national did not register on the WRS at all

If an EU8 national was not exempt from the Workers Registration Scheme (WRS) and they did not register on it at all, we would not consider them to have exercised Treaty rights as a worker until 30 April 2009 (when the WRS ended). This is because any employment up to this date will not be legal.

## Applications we wrongly assessed without checking WRS

We previously issued some passports without checking if an EU8 national registered on the Workers Registration Scheme (WRS). You must refer to WRS: completing checks for which applications are affected (including how to deal with them).

## Exemptions to the WRS

EU8 nationals did not have to register on the Workers Registration Scheme (WRS), if they:

- had leave (permission) giving them unrestricted employment rights on 30 April 2004 (for example, they were granted leave to enter or leave to remain in the UK under the Immigration Act 1971)
- exercised their Treaty rights for the full 5 year qualifying period as, a:
  - student
  - self-employed person
  - self-sufficient person (for example, someone who is retired)
  - jobseeker
- were sent to the UK to work (or provide a service) for a non UK-based employer (for example, a posted worker)
- had dual citizenship with the UK and another EEA country other than an EU8 country or Switzerland
- worked in the UK and were the family member of an EEA national who was not an EU8 national
- were the family member of an EEA national who was living in the UK as a student or self-sufficient person
- completed 12 months legal employment, that either:
  - started and finished before (or on) 30 April 2004
  - started before and finished after 30 April 2004
  - started after 30 April 2004 (for example, when they already completed 1 months' work on the WRS)
- worked in Guernsey, Jersey, or the Isle of Man (as they'll have been working outside of the UK)

Unless an EU8 national meets one of these exemptions, they needed to register on the WRS if they were a student, self-employed person, self-sufficient person or jobseekers who later became employed during the 5 year qualifying period.

## What we mean by legal employment

Legal employment means an EU8 national had leave to enter or remain in the UK, under immigration laws that allowed them to work. For example:

- permit holders who worked in line with their work permit
- students who worked in line with their student leave conditions, for example, working:
  - up to 20 hours per week during term time
  - full-time outside of term time
  - on course related placements

EU8 nationals who started work before 30 April 2004 (the day before the EU8 countries joined the EU) in line with immigration laws that allowed them to work, will have been in legal employment. If they:

- completed 12 months of employment (without any breaks) that ended on, or after 30 April 2004, they would be exempt from registering on the WRS
- changed employer on, or after 30 April before completing 12 months employment, they needed register their new employment on WRS (until they completed 12 months continuous employment)

EU8 nationals who started work on, or after 30 April 2004 and completed 12 months continuous employment on the WRS would be:

- in legal employment
- exempt from registering further employment on the WRS

An EU8 national would not be in legal employment if they had leave that allowed them to work but were not working. For example, an EU8 national who had leave as a student on 30 April 2004 who started work on, or after 1 May 2004, would have needed, to:

- register on the WRS
- complete 12 months continuous employment on the WRS

## Workers Registration Scheme: agency workers

Some EU8 nationals may have been placed in employment through an agency and then given a permanent position with an employer. Depending on the relationship between the agency and the employer, the EU8 national may have needed to re-register on the WRS. An EU8 national would:

- not need to re-register on the WRS, if the employer always paid their wages (as we would not consider there to be a change in employment)
- need to re-register on the WRS, if the agency was paying their wages but the employer took over paying them (as we would consider there to be a change in employment)

## Workers Registration Scheme: additional employment

Some EU8 nationals may have registered their employment on the WRS but took additional employment they did not register on the WRS. Their employment will still be lawful, as long they met the WRS conditions, for example, if they:

- worked for a continuous 12 month period with the employer they registered on the WRS
- changed employer within the first 12 months but registered the new one on the WRS within 30 days of starting

## Workers Registration Scheme: pregnancy

If an EU8 national left their employer because of a pregnancy, you must refer to retaining worker status following pregnancy. This is because we can treat them as having completed 12 months lawful employment, if both of the following apply:

- they registered on the WRS before the child was born
- they left their employer before they were able to complete 12 months registered employment

## Workers Registration Scheme: family members

An EU8 national's family member, including if they were non-EEA nationals who were issued with residence document:

- did not need to register on the WRS separately (they must still provide evidence to show their EU national exercised Treaty rights for the qualifying period)
- can have a Registration Certificate without having to register on the WRS

This means an EU8 national's family member may not have a WRS card. However, as part of the passport application, they must still supply evidence to show the EU8 national who they depend on, met the WRS conditions.

## WRS: how to deal with the Treaty rights application

How you deal with a Treaty rights passport application will depend on if the EU8 national was exempt from the Workers Registration Scheme (WRS).

If an EU8 national tells us they were exempt from registering on the WRS, you must ask them for evidence that shows it. When you get the evidence, you must:

1. Check if the EU8 national is exempt from registering on the WRS.
2. Continue to process the application (if the EU8 national is exempt from registering on the WRS).

If an EU8 national was not exempt from the WRS, the evidence we need to confirm they met the conditions of it, could be either of the following:

- a Registration Certificate
- Accession State WRS Registration Certificates, including employment evidence such as P60s or payslips (so we can check they met the WRS conditions for 12 months)

When checking the evidence, you must consider when the 5 year qualifying period started.

You must be aware the WRS ended on 30 April 2009 so there is no requirement for an EU8 national to register employment on the WRS after this date. This means an EU8 national did not need to register 12 months' worth of employment on the WRS if they started work after 30 April 2009.

### Registration Certificate issued before qualifying period started

If an EU8 national has a Registration Certificate that was issued before the start of the 5 year qualifying period, you:

- do not need any other evidence to confirm they met the WRS conditions
- must continue to process the application

### Registration Certificate issued during or after qualifying period

If an EU8 national has a Registration Certificate that was issued during, or after the 5 year qualifying period, you must check the UKVI systems to see if it shows when the customer met the WRS conditions. This is because they could have met the WRS conditions before the Registration Certificate was issued.

If the UKVI systems show the EU8 national met the WRS conditions before the start of the 5 year qualifying period or within 12 months of the start of the qualifying period, you:

- do not need any other evidence to confirm they met the WRS conditions
- must continue to process the application

If the UKVI systems do not show when the EU8 national met the WRS conditions or shows they met the WRS conditions more than 12 months after the start of the qualifying period, you must:

1. Ask the customer for their:
  - Accession State WRS Registration Certificates
  - P60s and payslips
2. Carefully check the EU8 national's Accession State WRS Registration Certificates, P60s and payslips, to make sure they met the Workers Registration Scheme (WRS) conditions, for example, they were:
  - employed for 12 months with the same employer
  - registered their new employment on the WRS (if they changed employer within the first 12 months)

If an EU8 national cannot supply an Accession State Workers Registration Scheme (WRS) Registration Certificates or Registration Certificate, you must use, the:

- Entity Search system, to check what information is shown on the WRS
- their P60s and payslips together with the information on the WRS, to make sure they met the WRS conditions, for example, they were:
  - employed for 12 months with the same employer
  - registered their new employment on the WRS (if they changed employer within the first 12 months)

## WRS conditions and effect on qualifying period

Depending on if (and when) an EU8 national met the Workers Registration Scheme (WRS) conditions, you must consider if it affects their qualifying period. For example,

- you need to discount periods of employment from the qualifying period if the EU8 national registered it on the WRS more than 30 days after starting (as you must use the issue date Accession State WRS Registration Certificate)
- you do not need to discount periods of employment from the qualifying period if the EU8 national registered on the WRS within 30 days of starting work
- the earliest the qualifying period can start is the 30 April 2009 (if the EU8 national was not exempt from the WRS and they did not register on it at all)

## EU2 worker: authorisation to work

A transitional arrangement was in place from 1 January 2007 to 31 December 2013 for EU2 nationals who wanted to start work in the UK. Unless they were exempt, they had to:

- register their employment on the Accession Worker Scheme (AWS) before starting work – when they did, they:
  - were issued with an Accession Worker Card (known as the purple card) that gave them permission to work for a named employer only
  - needed a new Accession Worker Card if they changed employer in the first 12 months
- complete 12 months continuous employment on the AWS without a break of more than 30 days – when they did, they:
  - were legally working
  - could apply to UKVI for a Registration Certificate (known as a blue card)
  - could work for any other employer, without needing to re-register on the AWS

Before 1 January 2014, an EU2 national who was not exempt from the AWS:

- could not have a right of residence as a jobseeker
- who worked in line with their Accession Worker Card:
  - only had a right of residence as a worker

- is not considered a worker if they became unemployed (under 6(2) of the EEA Regulations)

## Accession Worker Scheme: students who were working

EU2 national students did not need to register on the AWS if they:

- worked no more than 20 hours during term-time
- worked full-time during student holidays
- were doing work that was part of their course

If an EU2 student wanted to work more than 20 hours per week during term-time, they needed to register their employment on the AWS.

EU2 students could work for up to 4 months after their course ended, as long as they were issued with a valid Registration Certificate while they were studying.

## Accession Worker Scheme: exemptions

EU2 nationals did not have to register on the AWS, if they:

- exercised their Treaty rights for the full 5 year qualifying period as, a:
  - self-employed person
  - student (if they were not working, only worked up to 20 hours a week during term-time or full-time during student holidays)
  - self-sufficient person
- had indefinite leave to remain (ILR) or indefinite leave to enter (ILE) (under the Immigration Act 1971)
- had limited leave to remain on 31 December 2006 that did not place any restrictions on taking employment in the UK, for example, when they:
  - were given leave to remain under the Highly Skilled Migrant Programme
  - are the spouse of a British citizen
  - are the dependent of a work permit holder
- have been working in line with their leave (for example, work permit holders or students working less than 20 hours per week) without any breaks in employment that ended on, or after 31 December 2006
- are a citizen of the UK, Switzerland, or any other EEA country other than Bulgaria or Romania
- are the family member of a non-EU2 national who exercised Treaty rights in the UK, or the spouse or civil partner of either, a
  - British citizen
  - person who is settled in the UK
- are the family member of an EU2 national worker who was issued with a valid Accession Worker Card or valid Seasonal Agricultural Workers Scheme (SAWS) card (except if they were issued it as part of an application for an authorised family member)
- are the family member of another EU2 national who exercised Treaty rights as a student, self-sufficient person, or self-employed person – you must be aware,

the family member remained exempt while the EU2 national continued to be a student, self-sufficient person or self-employed person

- may have been issued with a 'half blue' registration certificate
- are the spouse, civil partner, descendant under the age of 21 or dependant, descendant of another EU2 national who was working in line with the AWS or SAWS requirements (the spouse, civil partner or descendant may have a 'half blue' registration certificate)
- are the spouse, civil partner or child under the age of 18 of a person who has ILR or ILE that allows them to work
- they have a Registration Certificate on the basis they are a highly skilled worker
- they have 12 months legal employment made up of up to 6 months work in line with their SAWS card and the remaining period of the 12 months made up by other legal work, for example:
  - 6 months spent working under SAWS directly followed by 6 months working as student (in line with their student visa)
  - 4 months spent working under SAWS directly followed by 8 months for an employer that they registered on the AWS
- came to work in the UK under the SAWS and have a SAWS card (as this is a worker authorisation document)

EU2 nationals who were students, self-employed or self-sufficient who started work during the qualifying period, needed to register on the AWS (unless they were exempt).

## Accession Worker Scheme: evidence

If an EU2 national gives us a:

- Registration Certificate, you must accept it as evidence they were exempt from the AWS
- Accession Worker Card, you must check:
  - the employer named on it matches their P60s and payslips, to see if they completed 12 months continuous employment
  - the UKVI systems or ask the customer for more evidence, if it's not clear if they completed 12 months continuous employment (from the evidence they gave)

## Accession Worker Scheme: SAWS

The Seasonal Agricultural Workers Scheme (SAWS) was designed to help farmers and growers in the UK recruit low-skilled overseas workers to carry out short term agricultural work.

The SAWS worked on an annual quota basis. Farmers and growers could only recruit a certain number of workers each year. When the quota was full, the SAWS scheme closed for that year.

EU2 nationals had to apply for a SAWS card that gave them permission to work in the UK for a fixed period of time (usually between 5 weeks and 6 months).

If you get a SAWS card, you must make sure the employment details on it match the details on EU2 nationals P60s and payslips for the period of time the SAWS card was valid. If:

- it does, the EU2 national will be in legal employment and you can count the employment towards the 5 year qualifying period
- does not, the EU2 national will not be in legal employment and you cannot count it towards the 5 year qualifying period

After an EU2 national's seasonal work ended, they may have returned to their home country, or they may have continued to exercise Treaty rights in the UK. If they stayed in the UK and:

- continued to work, you must refer to Treaty rights: worker - you must be aware:
  - they needed to register their employment on the AWS (unless they were exempt)
  - if they had already completed 6 months lawful employment under SAWS, they would only need to complete 6 months registered employment on the AWS
- stayed in the UK and became a jobseeker, you must refer to Treaty rights: jobseeker
- stayed in the UK and became a self-employed person, you must refer to Treaty rights: self-employed person
- stayed in the UK and became a self-sufficient person, you must refer to Treaty rights: self-sufficient person
- stayed in the UK and became a student, you must refer to Treaty rights: student
- returned to their home country but continued to come back to UK every 6 months under the SAWS, we would not consider them to have been exercising Treaty rights (as they are not a resident of the UK)

If you get a SAWS card and are unsure how to deal with it, you must send a guidance query to Guidance & Quality, Operating Standards (through the Quality and Examination Support team referral process).

## **EU2 national registered on SAWS but cannot supply evidence**

If an EEA national tells us they registered on the Seasonal Agricultural Workers Scheme (SAWS) but cannot provide evidence, you must check the UKVI system to see if they did and use their employment evidence to make sure they complied with it.

If there is no record on the UKVI system to show the EEA national registered on the SAWS, you must:

1. Ask them for a signed statement that confirms:
  - they registered on the SAWS
  - who they worked for

- the start and end date of their employment (we will accept the month and year if they cannot provide the exact date).
2. Decide on a balance of probability if the EEA registered on the SAWS using the employment evidence and signed statement.

## **Croatian worker: authorisation to work**

A transitional arrangement was in place from 1 July 2013 to 30 June 2018 for Croatian nationals who wanted to start work in the UK. This worked in the same way as if they were an EU2 national.

Before 1 July 2018, Croatian nationals who needed permission to work, did not have a right of residence as a jobseeker. However, from 1 July 2018, they had the same rights as any other EEA national worker or jobseeker.

### **Related content**

[Contents](#)

# Treaty rights: jobseeker

This section tells HM Passport Office operational staff how to deal with passport applications for customers whose nationality claim relies on a European Economic Area (EEA) national who exercised Treaty rights as a jobseeker.

How we deal with an application when a European Economic Area (EEA) national who exercised Treaty rights as a jobseeker depends on if a customer was born:

- on, or before 1 October 2000 in the UK (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) as:
  - the principle law in place at the time was [The Immigration Act 1971](#)
  - [The Immigration \(European Economic Area\) Order 1994](#) explains how someone who exercised Treaty rights would not be subject to immigration control
- on, or after 30 April 2006, as [The Immigration \(European Economic Area\) Regulations 2006](#) was in place at the time (amended by [The Immigration \(European Economic Area\) Regulations 2016](#) and [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#))

You must refer to:

- Treaty rights: born between 2 October 2000 and 29 April 2006 if the customer was born from:
  - 2 October 2000 up to, and including 29 April 2006 in the UK
  - 31 March 2004 up to, and including 29 April 2006 in Jersey
  - 1 October 2004 up to and including 29 April 2006 in Guernsey
  - 9 February 2004 up to, and including 29 April 2006 in the Isle of Man
- European Union Settlement Scheme if the customer was born on, or after 1 July 2021

## About Treaty rights applications for jobseekers

A jobseeker is someone, who:

- enters the UK looking for employment
- is in the UK looking for employment directly after they were exercising Treaty rights as, a:
  - worker
  - self-employed person
  - self-sufficient person
  - student

EEA nationals who exercised Treaty rights as a jobseeker:

- must be able to show they were looking for employment and that they had a genuine chance of being employed
- are expected to get employment within 6 months of looking for work

## Jobseeker: EU8, EU2 and Croatian nationals

EU8, EU2 and Croatian nationals could not exercise Treaty rights as a jobseeker during the time the transitional arrangements were in place that meant they needed permission to work – see:

- transitional arrangements for EU8 nationals
- transitional arrangements for EU2 nationals
- transitional arrangements for Croatian nationals

However, they could have exercised Treaty rights as a self-sufficient person while they looked for work.

## Jobseeker: genuine chance of being employed

EEA national jobseekers must have a genuine chance of being employed. This depends, on:

- their skills, training and qualifications
- types of jobs they applied for

An example of an EEA national who does not have a genuine chance of being employed may be when they were looking for employment as a childcare provider, but they did not have any:

- experience of childcare
- qualifications or training in childcare or child learning and development

## Jobseeker: how long an EEA national can be a jobseeker

An EEA national who entered the UK to look for work had an initial 3 month period of unconditional residence and could then have had up to 91 days as a jobseeker (during which they can access jobseeker related benefits). After the 91 day period as a jobseeker, the EEA national must prove they were actively seeking work and had a genuine chance of being employed. If they cannot prove they were actively seeking work, we will not consider them to have exercised Treaty rights as a jobseeker.

An EEA national who became a jobseeker immediately after they exercised Treaty rights in another capacity (worker, self-employed person, self-sufficient person or student) has a right of residence as jobseeker for 91 days. During this time, they must have been actively seeking employment and had a genuine chance of being employed.

If an EEA national previously completed 91 days as a jobseeker during the 5 year qualifying period, you must not count it as part of the qualifying period, unless both of the following apply:

- it was before they spent more than 12 months out of the UK

- they can supply evidence to show they were actively seeking work and had a genuine chance of being employed

If an EEA national was a jobseeker for more than 6 months:

- it does not mean the customer will not have a claim, but it can be more difficult to confirm they do
- you must send a guidance query to Guidance & Quality, Operating Standards (using the Quality and Examination Support team (QuEst) referral process)

## **Jobseeker: customer born on, or before 1 October 2000**

A customer born on, or before 1 October 2000 (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) will have a claim if at the time of their birth, the EEA national who the nationality claim relies on, was issued with:

- a Home Office letter confirming they were living in the UK in line with the Immigration (European Economic Area) Order 1994 or the immigration rules that were in place at that time

If a customer supplies any of these, you must:

1. Check the UK Visas and Immigration systems (UKVI) to make sure it is genuine and has not been revoked (cancelled). If you have doubts it is genuine or suspect UKVI issued it in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEst referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not supply any of these, we need evidence the EEA national exercised Treaty rights as a jobseeker, at the time they were born. This is both of the following:

- evidence they were actively looking for employment, such as:
  - job application forms or letters sent to employers or employment agencies
  - job interview invitation letters (or emails)
  - job rejection letters (or emails)
  - Jobcentre Plus letters (or emails)
- evidence of Jobseekers Allowance (if they received Jobseekers Allowance)

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a jobseeker at the time the customer was born, taking in to account how long they have been a jobseeker.
2. Continue to process the application.

## Treaty rights jobseeker: born on, or after 30 April 2006

A customer will have a claim if before they were born, their parent was issued with a

- document certifying permanent residence
- permanent residence card (for customers whose parent is the non-EEA national family member of an EEA national)

If you get any of these, you must:

1. Check the UKVI system to make sure the right of permanent residence was granted before the child was born, they are genuine and have not been revoked. If you have doubts they are genuine or suspect UKVI issued them in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEST referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide a document certifying permanent residence or a permanent residence card and the EEA national exercised Treaty rights as a jobseeker during the 5 year qualifying period, we need evidence to show they did. This is both of the following:

- evidence they were actively looking for employment, such as:
  - job application forms or letters sent to employers or employment agencies
  - job interview invitation letters (or emails)
  - job rejection letters (or emails)
  - Jobcentre Plus letters (or emails)
- evidence of Jobseekers Allowance (if they received Jobseekers Allowance)

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a jobseeker during the 5 year qualifying period, taking in to account how long they have been a jobseeker.
2. Check if the EEA national exercised Treaty rights other than as a jobseeker during the 5 year qualifying period. If they were and it was as, a:
  - worker, you must refer to Treaty rights: worker
  - self-employed person, you must refer to Treaty rights: self-employed person
  - self-sufficient person, you must refer to Treaty rights: self-sufficient person
  - student, you must refer to Treaty rights: student
3. Check if you can count periods of residence before the EEA national's country joined the EEA (see Treaty rights: Ziolkowski ruling).
4. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
5. Refer to Treaty rights: break in residence (if there's a gap in the EEA national's evidence or there's evidence to suggest they have been out of the UK for 2 years).
6. Continue to process the Treaty rights passport application.

**Related content**

[Contents](#)

# Treaty rights: self-employed person

This section tells HM Passport Office operational staff how to deal with passport applications for customers whose nationality claim relies on a European Economic Area (EEA) national who exercised Treaty rights as a self-employed person.

How we deal with an application when a European Economic Area (EEA) national who exercised Treaty rights as a self-employed person depends on if a customer was born:

- on, or before 1 October 2000 in the UK (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) as:
  - the principle law in place at the time was [The Immigration Act 1971](#)
  - [The Immigration \(European Economic Area\) Order 1994](#) explains how someone who exercised Treaty rights would not be subject to immigration control
- on, or after 30 April 2006, as [The Immigration \(European Economic Area\) Regulations 2006](#) was in place at the time (amended by [The Immigration \(European Economic Area\) Regulations 2016](#) and [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#))

You must refer to:

- Treaty rights: born between 2 October 2000 and 29 April 2006 if the customer was born from:
  - 2 October 2000 up to, and including 29 April 2006 in the UK
  - 31 March 2004 up to, and including 29 April 2006 in Jersey
  - 1 October 2004 up to and including 29 April 2006 in Guernsey
  - 9 February 2004 up to, and including 29 April 2006 in the Isle of Man
- European Union Settlement Scheme if the customer was born on, or after 1 July 2021

## About Treaty rights applications for a self-employed person

A self-employed person is someone who works for themselves and generates an income in a self-employed capacity.

## Construction Industry Scheme

You must treat an EEA national who worked for a contractor and registered under the Construction Industry Scheme (CIS) as a self-employed person. They will normally have:

- tax returns and tax calculations (SA302s)
- monthly statements from the contractor showing payments and deductions

An EEA national who worked for a contractor did not need to register on the CIS if they were an employee (worker). If the EEA national was an employee, you must treat them as a worker.

## Treaty rights self-employed: genuine and effective work

There's no minimum number of hours an Economic Area (EEA) national exercising Treaty rights as a self-employed person must work. However, you must be satisfied their self-employed work is:

- genuine and effective
- not marginal or ancillary (supplementary) (when their self-employed activity involves so little time and money it's mostly irrelevant to their lifestyle)

## Treaty rights self-employed: stops working

If an EEA national stopped self-employed work, we may still consider them to have exercised Treaty rights (see retaining worker or self-employed person status and worker or self-employed person who has ceased activity).

If an EEA national is temporarily incapacitated and returns to work, you may still be able to consider them a worker (see retaining worker or self-employed person status). This includes someone who was working before being temporarily incapacitated who then received Jobseekers Allowance (as the Department for Work and Pensions will be satisfied they were able to work).

## Treaty rights self-employed: partnerships and directors

You must treat an EEA national as a self-employed person if they are:

- the director of their own company and they pay themselves a wage from their company profits
- in a partnership

## Self-employed: customer born on, or before 1 October 2000

A customer born on, or before 1 October 2000 (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) will have a claim if at the time of their birth, the EEA national who the nationality claim relies on, was issued with a:

- Home Office letter confirming they were living in the UK in line with the Immigration (European Economic Area) Order 1994 or the immigration rules that were in place at that time

If a customer supplies any of these, you must:

1. Check the UK Visas and Immigration systems (UKVI) to make sure it is genuine and has not been revoked (cancelled). If you have doubts it is genuine or suspect UKVI issued it in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the Quality and Examination Support team (QuESt) referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not supply any of these, we need evidence the EEA national exercised Treaty rights as a self-employed person, at the time they were born. This is any of the following:

- HM Revenue and Customs (HMRC) SA302 calculations showing declared income
- HMRC tax returns showing declared income
- full tax calculations showing income from self-employed (from HMRC's personal tax account)
- business accounts showing declared income
- invoices or receipts payments for work or services carried out

If a customer needs to ask HMRC for information or evidence, you must allow them enough time to provide it, before you withdraw their application (see withdrawing passport applications).

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a self-employed person at the time the customer was born and the work they were doing was genuine and effective.
2. Check if the EEA national is a retained worker or ceased activity (if they stopped working).
3. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
4. Continue to process the application.

## **Self-employed: customer born on, or after 30 April 2006**

A customer will have a claim if before they were born, their parent was issued with a

- document certifying permanent residence
- permanent residence card (for customers whose parent is the non-EEA national family member of an EEA national)

If you get any of these, you must:

1. Check the UKVI system to make sure the right of permanent residence was granted before the child was born, they are genuine and have not been revoked. If you have doubts they are genuine or suspect UKVI issued them in

error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEST referral process).

2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide a document certifying permanent residence or a permanent residence card and the EEA national exercised Treaty rights as a self-employed person during the 5 year qualifying period, we need evidence to show they did. This is any of the following:

- HMRC SA302 calculations showing declared income
- HMRC tax returns showing declared income
- full tax calculations showing income from self-employed (from HMRC's personal tax account)
- business accounts showing declared income
- invoices or receipts showing payments for work or services carried out

If a customer needs to ask HMRC for information or evidence, you must allow them enough time to provide it, before you withdraw their application (see withdrawing passport applications).

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a self-employed person and the work they were doing was genuine and effective.
2. Check if the EEA national is a retained worker or ceased activity (if they stopped working).
3. Check if the EEA national exercised Treaty rights other than as a self-employed person during the 5 year qualifying period. If they were and it was as, a:
  - worker, you must refer to Treaty rights: worker
  - jobseeker, you must refer to Treaty rights: jobseeker
  - self-sufficient person, you must refer to Treaty rights: self-sufficient person
  - student, you must refer to Treaty rights: student
4. Check if you can count periods of residence before the EEA national's country joined the EEA (see Treaty rights: Ziolkowski ruling).
5. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
6. Refer to Treaty rights: break in residence (if there's a gap in the EEA national's evidence or there's evidence to suggest they have been out of the UK for 2 years).
7. Continue to process the application.

## **Related content**

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# Treaty rights: self-sufficient person

This section tells HM Passport Office operational staff how to deal with passport applications for customers whose nationality claim relies on a European Economic Area (EEA) national who exercised Treaty rights as a self-sufficient person.

How we deal with an application when a European Economic Area (EEA) national who exercised Treaty rights as a self-sufficient person depends on if a customer was born:

- on, or before 1 October 2000 in the UK (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) as:
  - the principle law in place at the time was [The Immigration Act 1971](#)
  - [The Immigration \(European Economic Area\) Order 1994](#) explains how someone who exercised Treaty rights would not be subject to immigration control
- on, or after 30 April 2006, as [The Immigration \(European Economic Area\) Regulations 2006](#) was in place at the time (amended by [The Immigration \(European Economic Area\) Regulations 2016](#) and [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#))

You must refer to:

- Treaty rights: born between 2 October 2000 and 29 April 2006 if the customer was born from:
  - 2 October 2000 up to, and including 29 April 2006 in the UK
  - 31 March 2004 up to, and including 29 April 2006 in Jersey
  - 1 October 2004 up to and including 29 April 2006 in Guernsey
  - 9 February 2004 up to, and including 29 April 2006 in the Isle of Man
- European Union Settlement Scheme if the customer was born on, or after 1 July 2021

## About Treaty rights applications for a self-sufficient person

EEA nationals who exercised Treaty rights as a self-sufficient person only affects customers born on, or after 30 June 1992.

A self-sufficient person is someone who has sufficient resources to cover their (and any family member's) living costs, so they do not become a burden on the UK social assistance system.

EEA nationals who exercised Treaty rights as a self-sufficient person also need to show they (and any family members) had comprehensive sickness insurance (CSI).

## Self-sufficient: charity workers

An EEA national who is a charity worker may qualify as self-sufficient if they can show:

- they have sufficient resources to support themselves
- the charity is meeting their living costs

Although they (and any family members) must have CSI, the charity can meet the cost of it.

An EEA national doing charity work may be considered a worker, if their work involves taking part in the commercial activities of the charity for which they receive payment in the form of living expenses or accommodation (see Treaty rights: Worker).

## Self-sufficient: retired

An EEA national who was working or self-employed may have retired. If they have, we may still consider them to have exercised Treaty rights as a worker or self-employed person (see Worker or self-employed person who has ceased activity).

If an EEA national retired and you cannot consider them to have exercised Treaty rights as a worker or self-employed person who ceased activity, they may qualify as self-sufficient. This is providing they can show they have sufficient resources (such as pensions or investments) to cover their living costs (so they do not become a burden on the UK social assistance system).

UK Pension Credit and contributions based UK state pension on their own are not acceptable forms of pensions.

## Self-sufficient: customer born on, or before 1 October 2000

A customer born on, or before 1 October 2000 (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) will have a claim if at the time of their birth, the EEA national who the nationality claim relies on, was issued with a:

- Home Office letter confirming they were living in the UK in line with the Immigration (European Economic Area) Order 1994 or the immigration rules that were in place at that time

If a customer supplies any of these, you must:

1. Check the UK Visas and Immigration systems (UKVI) to make sure it is genuine and has not been revoked (cancelled). If you have doubts it is genuine or suspect UKVI issued it in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the Quality and Examination Support team (QuEst) referral process).

2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide any of these, we need evidence the EEA national exercised Treaty rights as a self-sufficient person at the time they were born. This is all of the following:

- evidence they (and any family members) had sufficient resources – this can be any of the following:
  - bank statements showing income received
  - statements showing income received from pensions or investments
- evidence of any social assistance funds (also known as public funds or benefits) they received, or evidence they did not receive any
- evidence they (and any family members) had CSI

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a self-sufficient person at the time the customer was born.
2. Check the EEA national (and any family members) had sufficient resources at the time the customer was born.
3. Check if EEA national (and any family members) had CSI at the time the customer was born.
4. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
5. Continue to process the application.

## **Self-sufficient: customer born on, or after 30 April 2006**

A customer will have a claim if before they were born, their parent was issued with a

- document certifying permanent residence
- permanent residence card (for customers whose parent is the non-EEA national family member of an EEA national)

If you get any of these, you must:

1. Check the UKVI system to make sure the right of permanent residence was granted before the child was born, they are genuine and have not been revoked. If you have doubts they are genuine or suspect UKVI issued them in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEST referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide a document certifying permanent residence or a permanent resident card and the EEA national exercised Treaty rights as a self-sufficient person during the 5 year qualifying period, we need evidence to show they were. We need all of the following:

- evidence they (and any family members) had sufficient resources – this can be any of the following:
  - bank statements showing income received
  - statements showing income received from pensions or investments
- evidence of any social assistance funds they received, or evidence they did not receive any
- evidence they (and any family members) had CSI

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a self-sufficient person.
2. Check the EEA national (and any family members) had sufficient resources while they exercised Treaty rights as a self-sufficient person.
3. Check if EEA national (and any family members) had CSI while they exercised Treaty rights as a self-sufficient person.
4. Check if the EEA national exercised Treaty rights other than as a self-sufficient person as part of the 5 year qualifying period. If they were and it was as, a:
  - worker, you must refer to Treaty rights: worker
  - jobseeker, you must refer to Treaty rights: jobseeker
  - self-employed person, you must refer to Treaty rights: self-employed person
  - student, you must refer to Treaty rights: student
5. Check if you can count periods of residence before the EEA national's country joined the EEA (see Treaty rights: Ziolkowski ruling).
6. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
7. Refer to Treaty rights: break in residence (if there's a gap in the EEA national's evidence or evidence to suggest they have been out of the UK for 2 years).
8. Continue to process the application.

## **Related content**

[Contents](#)

# Treaty rights: student

This section tells HM Passport Office operational staff how to deal with passport applications for customers whose nationality claim relies on a European Economic Area (EEA) national who exercised Treaty rights as a student.

How we deal with an application when a European Economic Area (EEA) national who exercised Treaty rights as a student depends on if a customer was born:

- on, or before 1 October 2000 in the UK (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) as:
  - the principle law in place at the time was [The Immigration Act 1971](#)
  - [The Immigration \(European Economic Area\) Order 1994](#) explains how someone who exercised Treaty rights would not be subject to immigration control
- on, or after 30 April 2006, as [The Immigration \(European Economic Area\) Regulations 2006](#) was in place at the time (amended by [The Immigration \(European Economic Area\) Regulations 2016](#) and [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#))

You must refer to:

- Treaty rights: born between 2 October 2000 and 29 April 2006 if the customer was born from:
  - 2 October 2000 up to, and including 29 April 2006 in the UK
  - 31 March 2004 up to, and including 29 April 2006 in Jersey
  - 1 October 2004 up to and including 29 April 2006 in Guernsey
  - 9 February 2004 up to, and including 29 April 2006 in the Isle of Man
- European Union Settlement Scheme if the customer was born on, or after 1 July 2021

## About Treaty rights applications for a student

EEA nationals who exercised Treaty rights as a student only affects customers born on, or after 30 June 1992.

A student is someone who was enrolled at a public or private establishment (recognised by Secretary of State for Education) for the main purpose of study, including vocational training.

If an EEA national is working, you must consider if they exercised Treaty rights as a worker.

EEA nationals who exercised Treaty rights as a student must:

- show they were covered by comprehensive sickness insurance (CSI), unless they were issued with a registration certificate on the basis of being a student

on, or before 8 July 2010 (see Treaty rights: comprehensive sickness insurance)

- show any family members were covered by CSI (only from 22 June 2015)
- show they (and any family members) have sufficient resources to cover their (and any family members) living costs so they do not become a burden on the UK social assistance system
- have been studying at a recognised establishment

## Studying at recognised educational establishment

You must check if the EEA national who exercised Treaty rights as a student was studying at a recognised educational establishment.

If the EEA national's place of study is on the [register of sponsors](#), you can accept they were studying at a recognised educational establishment.

If the EEA national's place of study is not on the register of sponsors, you must ask for evidence to show either of the following:

- their place of study was publicly funded
- their place of study was accredited

An education 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 (in line with the [Further and Higher Education Act 1992](#))
- any establishment receiving grants, loans or other payments from the Higher Education Funding Council for England

An educational establishment is accredited if it 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. These are:

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

If an:

- EEA national's place of study is not on the register of sponsors and you do not get evidence to show it was publicly funded or accredited, you must not accept they exercised Treaty rights as student
- EEA national gives you evidence to show their place of study was publicly funded or accredited but you are not sure if it is, you must send a guidance query to Quality & Guidance, Operating Standards (using the Quality and Examination Support team (QuEST) referral process)

## **Student: customer born on, or before 1 October 2000**

A customer born on, or before 1 October 2000 (30 March 2004 in Jersey, 30 September 2004 in Guernsey or 8 February 2004 in the Isle of Man) will have a claim if at the time of their birth, the EEA national who the nationality claim relies on, was issued with a:

- Home Office letter confirming they were living in the UK in line with the Immigration (European Economic Area) Order 1994 or the immigration rules that were in place at that time

If a customer supplies any of these, you must:

1. Check the UK Visas and Immigration systems (UKVI), to make sure it is genuine and have not been revoked (cancelled). If you have doubts it is genuine or suspect UKVI issued it in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEST referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide any of these, we need evidence the EEA national exercised Treaty rights as a student at the time they were born. We need all of the following:

- evidence they were a student – this can be any of the following:
  - enrolment letters from schools or colleges confirming attendance
  - a letter from a college or university confirming attendance
  - a statement showing course fees were paid
- evidence of any social assistance funds (also known as public funds or benefits) they received, or confirmation they did not receive any
- evidence they (and any family members) had sufficient resources – this can be any of the following:
  - bank statements showing income received
  - statements showing income received from pensions or investments
- evidence they (and any family members) had CSI

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a student at a recognised educational establishment at the time the customer was born.

2. Check the EEA national (and any family members) had sufficient resources at the time the customer was born.
3. Check if EEA national (and any family members) needed CSI and if they did, that they had it at the time the customer was born.
4. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
5. Continue to process the application.

## Student: customer born on, or after 30 April 2006

A customer will have a claim if before they were born, their parent was issued with a

- document certifying permanent residence
- permanent residence card (for customers whose parent is the non-EEA national family member of an EEA national)

If you get any of these, you must:

1. Check the UKVI system to make sure the right of permanent residence was granted before the child was born, they are genuine and have not been revoked. If you have doubts they are genuine or suspect UKVI issued them in error, you must send a guidance query to Guidance & Quality, Operating Standards (using the QuEst referral process).
2. Not ask for any further Treaty rights evidence.
3. Continue to process the application.

If a customer does not provide a document certifying permanent residence or a permanent residence card and the EEA national exercised Treaty rights as a student during the 5 year qualifying period, we need evidence to show they did. This is all of the following:

- evidence they were a student – this can be any of the following:
  - enrolment letters from schools or colleges confirming attendance
  - a letter from a college or university confirming attendance
  - a statement showing course fees were paid
- evidence of any social assistance funds (also known as public funds or benefits) they received, or confirmation they did not receive any
- evidence they (and any family members) had sufficient resources – this can be any of the following:
  - bank statements showing income received
  - statements showing income received from pensions or investments
- evidence they (and any family members) had CSI

When you get the evidence, you must:

1. Check the evidence shows the EEA national exercised Treaty rights as a student at a recognised educational establishment.
2. Check the EEA national (and any family members) had sufficient resources while they exercised Treaty rights as a student.

3. Check if EEA national (and any family members) needed CSI and if they did, that they had it while they exercised Treaty rights as a student.
4. Check if the EEA national exercised Treaty rights other than as a student during the 5 year qualifying period. If they were and it was as, a:
  - worker, you must refer to Treaty rights: worker)
  - jobseeker, you must refer to Treaty rights: jobseeker
  - self-employed person, you must refer to Treaty rights: self-employed person
  - self-sufficient person, you must refer to Treaty rights: self-sufficient person
5. Check if you can count periods of residence before the EEA national's country joined the EEA (see Treaty rights: Ziolkowski ruling).
6. Refer to Treaty rights: Jersey, Guernsey and Isle of Man (if there's a connection to Guernsey, Jersey or the Isle of Man).
7. Refer to Treaty rights: break in residence (if there's a gap in the EEA national's evidence or there's evidence to suggest they have been out of the UK for 2 years).
8. Continue to process the application.

### **Related content**

[Contents](#)

# Treaty rights: family members

This section tells HM Passport Office operational staff how to deal with Treaty rights passport applications when a customer's nationality claim is through a parent who is the family member of a European Economic Area (EEA) national.

In some cases, a customer can have a claim to a British passport if their parent is the family member of a European Economic Area (EEA) national and the EEA national was exercising Treaty rights. The family member will either be a direct family member or an extended family member.

There are differences between a direct family member and an extended family member. These are set out in:

- [The Immigration \(European Economic Area\) Order 1994](#)
- [The Immigration \(European Economic Area\) Regulations 2006](#) (amended by [The Immigration \(European Economic Area\) Regulations 2016](#) and [The Immigration \(European Economic Area\) \(Amendment\) Regulations 2019](#))

## Who are direct family members

The direct family member of an EEA national, are:

- the spouse or civil partner of an EEA national
- the direct descendant of an EEA national (or the EEA national's spouse or civil partner) who is either:
  - under the age of 21
  - dependent on the EEA national (or the EEA national's spouse or civil partner)
- the dependant direct relatives in the ascending line (parent or grandparent) of an EEA national or the EEA national's spouse or civil partner

A direct family member does not have to be an EEA national.

Until they gain their own right of residence, the direct family member of an EEA national can live in the UK, while both of the following apply:

- they were the family member of the EEA national
- the EEA national exercised Treaty rights or had a right of permanent residence

If the family member of an EEA national is not a direct family member, they may be an extended family member.

## Treaty rights applications from direct family members

Direct family members apply to passport applications for customers born on, or before 1 October 2000 or born on, or after 30 April 2006.

For customers born on, or before 1 July 2000 whose claim is through the family member of an EEA national who exercised their Treaty rights as a student, the family member can only be their spouse, civil partner or dependent child.

A customer born on, or before 1 October 2000 or on, or after 30 April 2006 will have a claim, if during the qualifying period, their parent is the direct family member of an EEA national and we get evidence:

- the EEA national exercised Treaty rights at the time the customer was born (if the customer born on, or before 1 October 2000)
- the EEA national exercised Treaty rights for a consecutive 5 year period before the customer was born or the family member retained the right of permanent residence (if the customer was born on, or after 30 April 2006)
- of the direct family member's identity
- of relationship between the direct family member and the EEA national (for example, marriage certificate, civil partnership certificate, birth certificate or adoption certificate)
- the direct family member was dependant on the EEA national, for example, evidence to show the direct family member:
  - lived with the EEA national
  - was financially dependent on them

You can find more information about direct family members and the evidence you can accept to show they are a direct family member in Free Movement Rights: direct family members of European Economic Area (EEA) nationals.

## Who are extended family members

The extended family member of an EEA national are those who are not direct family members but are any of the following:

- a relative of an EEA national who is living in a country other than the UK and is dependent on the EEA national
- a relative of an EEA national who is a member of their household and:
  - is joining the EEA national in the UK (or wants to join them)
  - has joined the EEA national in the UK and is dependent on them or is part of their household
- a relative of an EEA national who needs the personal care of the EEA national due to serious health issues
- the partner (other than a civil partner) of an EEA national (they and the EEA national must be in a stable relationship)
- someone who is subject to a non-adoptive legal guardianship order with the EEA national that's legally recognised in the country it's from – the person name in the order must:
  - be under the age of 18
  - have lived with the EEA national since the order started
  - have created a life with the EEA national

- be dependent on the EEA national and the EEA national is legally and financially responsible for them

A relative of an EEA national includes:

- brothers and sisters
- aunts and uncles (including great aunts and great uncles)
- cousins (including second cousins)
- nieces and nephews (including great nieces and nephews)
- anyone related by marriage to the EEA national – you must be aware, since 11 February 2016, relatives related by marriage are not considered extended family members unless they were previously issued with an EEA family permit

There is no limit on the distance of the relationship between the EEA national and the extended family member (as long we get evidence to confirm there is a relationship between the extended family member and the EEA national).

From the 1 February 2017, the rights of extended family members only apply to relatives of an EEA national and not the relatives of an EEA national's spouse or civil partner. This means an extended family member can no longer rely on their relationship to an EEA national's spouse or civil partner and instead they must show they are a relative of an EEA national.

An extended family member of an EEA national:

- has the same residency rights as a direct family member, as long as they have residence document to confirm it, for example:
  - an EEA family permit
  - a registration certificate (for EEA national extended family members)
  - a residence card (for non-EEA national extended family members)
  - does not have to be an EEA national.

## About Treaty rights for extended family members

Extended family members only apply to applications for customers born on, or after 30 April 2006.

A customer born on, or after 30 April 2006 will have a claim if during the qualifying period, their parent is the extended family member of an EEA national and we get evidence:

- the EEA national exercised Treaty rights during the qualifying period or the family member retained the right of permanent residence
- of the extended family member's identity
- of relationship between the extended family member and the EEA national (for example, marriage certificates, civil partnership certificates or birth certificates)
- to show throughout the 5 year qualifying period the extended family member:
  - was living in the same household as the EEA national or was financially dependent on them

- had medical condition, including the type of care they needed (if the extended family member needed the personal care of the EEA national on serious health grounds)

You can find more information about extended family members and the evidence you can accept to show they are an extended family member in Free Movement Rights: extended family members of EEA nationals.

## Family member started to exercise Treaty rights

During the qualifying period, a direct or extended family member who is:

- not an EEA national, may have become an EEA national and started to exercise Treaty rights in their own right
- an EEA national, may have started to exercise Treaty rights in their own right

When this happens the 5 year qualifying period can be made up by the customer's parent being the direct or extended family member of an EEA national who exercised Treaty rights who then exercised Treaty rights themselves. For example, a child will have a claim if the 5 year qualifying period was made up as follows:

- for the first 3 years, their parent was the direct or extended family member of an EEA national who exercised Treaty rights
- for the remaining 2 years, their parent was an EEA national who exercised Treaty rights themselves

## Family members and domestic violence

A direct or extended family member may not be able to provide the evidence you need, about the EEA national who exercised Treaty rights, if the relationship between them broke down because of domestic violence. You must:

1. Deal with applications:
  - on a cases by case by basis
  - sensitively
2. Ask the family member for any evidence they can get, providing it will not put them or anyone else at risk of harm.
3. Ask the family member for as much information as possible about the EEA national, for example:
  - the EEA national's nationality
  - when and where the EEA national worked or studied (if they exercised Treaty rights as a worker or student)
4. Consider other options that may allow you to confirm information about the EEA national, for example:
  - asking for alternative evidence (you must make sure you do not ask the family member to do something that would put them (or anyone else) at risk)
  - checking the EEA national's identity, nationality or proof of relationship on UK Visas and Immigration systems

- contacting the EEA national's employer or education establishment for information about the EEA national (if the EEA national exercised Treaty rights as a worker or student and the family provided you with the details of where they worked or studied) – you must not mention domestic violence to the employer or education establishment
5. Ask an operational team leader to use all of the information you have to make a decision using a balance of probability.

**Related content**

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# Treaty rights: assessing sufficient resources

This section tells HM Passport Office operational staff how to assess if a European Economic Area (EEA) national who exercised Treaty rights as a student or self-sufficient person has sufficient resources.

Under regulation [6 of the Immigration \(European Economic Area \(EEA\)\) Regulations 2016](#), EEA nationals who exercised Treaty rights as a self-sufficient person or student must have sufficient resources to meet their (and any family members) living costs. This is in addition to any other requirements they must meet (see Treaty rights: self-sufficient person and Treaty rights: students).

EEA nationals who exercised Treaty rights as a worker, self-employed person or jobseeker do not need to show they are self-sufficient.

When deciding if an EEA national (and their family members) had sufficient resources, we'll check if they got UK social assistance payments (often referred to as public funds or benefits) in order to meet their living costs. If an EEA national did not get UK social assistance payments in order to meet their living costs, we'll accept they have sufficient resources.

There's no threshold for what sufficient resources is. However, it must be enough so the EEA national (and any family members) was not a burden on the UK social assistance system.

## Students and self-declaration

Regulation [4\(1\)\(d\)\(iii\) of the Immigration \(European Economic Area\) Regulations 2016](#) allows students to confirm (to the Secretary of State) they have sufficient resources not to become a burden on the UK social assistance system. This means a student can confirm they have sufficient resources by supplying a declaration confirming they met the requirements of having sufficient resources.

If a student supplies a declaration to confirm they met the requirements of having sufficient resources, we'll accept they have sufficient funds. If you are not sure if you can accept the declaration, you must send a guidance query to Guidance & Quality, Operating Standards (through the Quality and Examination Support team referral process).

## How to check if an EEA national has sufficient resources

When deciding if an EEA national (and any family members) had sufficient resources, you must:

- deal with each the application separately

- check if the:
- EEA national is a student who provided a declaration to confirm they meet the requirements of having sufficient resources
- EEA national's income evidence shows they received UK social assistance payments to help meet their living costs or if it shows they had enough resources so as to not rely on UK social assistance payments (unless they're a student who provided a self-declaration)

You must accept the EEA national had sufficient resources and continue to process the passport application if, they:

- provide evidence to show they had sufficient resources so they did not need to claim UK social assistance payments
- are a student who provided a declaration to confirm they met the requirements of having sufficient resources

If the EEA national's income evidence shows they received UK social assistance payments or they may not have enough resources, you must:

- ask for their living costs – this includes but is not limited to:
  - rent or mortgage costs
  - utility costs
  - loans, credit card and other personal debt costs
  - travel costs
  - food costs
- consider each application on its own
- decide if the EEA national's own income meets their living costs (you must discuss the application with QuEST or an operational team leader if you are unsure)

If you decide the EEA:

- national has sufficient resources to meet their living costs, you must accept they have sufficient resources and continue to process the passport application
- does not have sufficient resources or mostly relies on UK social assistance payments to meet their living costs, you must accept they do not have sufficient resources and continue to process the passport application (this may mean you need to refuse the application)

## UK social assistance payments

EEA nationals have a right to claim social assistance payments in the UK. They include (but are not limited to) the following:

- Her Majesty's Revenue and Customs:
  - Child Benefit
  - Child Tax Credits
  - Working Tax Credits
  - Working Families Tax Credits (including other forms of Tax Credits)

- the Department for Work and Pensions:
  - Attendance Allowance
  - Carers Allowance
  - Disability Living Allowance
  - Jobseekers Allowance
  - Income Support
  - Personal Independent Payments
  - Severe Disablement Allowance
  - Social Fund Payment (or discretionary support payment which replaces the Social Fund)
  - Universal Credit
- the Local Authority:
  - Council Tax Reduction
  - Housing and Council Tax Benefit
  - Housing and Homeless Assistance

## Cannot provide DWP evidence showing no social assistance received

If we need evidence to show the customer did not receive social assistance payments and they cannot provide information from the Department for Work and Pensions (DWP) or other government departments, you can accept their bank statements as evidence.

### Related content

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# Treaty rights: comprehensive sickness insurance

This section tells HM Passport Office operational which European Economic Area (EEA) nationals must have comprehensive sickness insurance (CSI) and what CSI evidence we'll accept.

We only need to check if a European Economic Area (EEA) national has comprehensive sickness insurance (CSI) if they exercised Treaty rights as a student or self-sufficient person.

EEA nationals who exercised Treaty rights as a worker, self-employed person or jobseeker do not need CSI.

## CSI for a self-sufficient person

EEA nationals must have comprehensive sickness insurance (CSI) for the time they exercised Treaty rights as a self-sufficient person. This must cover any family members whose right to reside in the UK is dependent on them.

## CSI for a student

EEA nationals who exercised Treaty rights as a student need to show they had CSI, unless they have a registration certificate based on being a student that was issued to them on, or before 8 July 2010.

From 22 June 2015, CSI must also cover an EEA national's family members whose right to reside in the UK is dependent on them.

If an EEA national student did not have CSI and they were also working, you must consider if they are exercised Treaty rights as a worker. This is because EEA nationals who exercised Treaty rights as a worker do not need CSI.

## Evidence of comprehensive sickness insurance

EEA nationals (and any family members) who need CSI, must provide evidence to show they had it. There's some evidence we can accept and some we cannot.

## Comprehensive sickness insurance evidence we can accept

We'll accept any of the following as evidence of CSI:

- a comprehensive private medical insurance policy document
- a valid European Health Insurance Card (EHIC) issued by any EEA country other than the UK (you must accept an E111, as they were issued before the introduction of EHICs)

- a form S1 (you must accept form E109 and E121, as they were issued before the introduction of form S1)
- a form S2 (you must accept form E112, as they were issued before the introduction of form S2)
- form S3

## Comprehensive sickness insurance evidence we cannot accept

We'll not accept any of the following as evidence of CSI:

- cash back health schemes (for example, dental, optician and prescription charges)
- travel insurance
- access to health services funded by the UK National Health Service

## How to deal with comprehensive sickness insurance

When dealing with Treaty rights passport applications for EEA nationals who need CSI, you must:

1. Check what evidence you can accept that shows the EEA national (and any family members) had CSI.
2. Use a fair approach when deciding if the EEA national (and any family members) had CSI. For example, you may accept an insurance policy that has exemptions, if it covers the EEA national (and any family members) for the cost of most medical treatments in the UK.
3. Ask for evidence to show the EEA national continued to pay for the insurance policy to make sure it did not end (if you have concerns about the validity of the CSI).
4. Decide if the EEA national (and any family members) had CSI while they exercised Treaty rights as a student or self-sufficient person. If they did not, you cannot accept they exercised Treaty rights.
5. Continue to process the application.

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# Treaty rights: Ziolkowski ruling

This section tells HM Passport Office operational staff about the Ziolkowski ruling and how it affects Treaty rights passport applications.

The Ziolkowski ruling:

- was made in the case 'Tomasz Ziolkowski (C-424/10) and Barbara Szeja and Others (C-425/10) v Land Berlin'
- only affects:
  - EU2 and EU8 nationals
  - Maltese nationals
  - Cypriot nationals
  - Croatian nationals

Under the Ziolkowski ruling, we can accept an EU2, EU8 or Croatian national's period residence in the UK before their country joined the European Union (EU), if both of the following apply:

- they were legally in the UK (in line with UK legislation)
- they would have met article 7 of [Directive 2004/38/EC](#) had it of been in force at the time (in other words, the exercised Treaty rights as a worker, self-employed person, job-seeker self-sufficient person or student in the UK before their country joined the EU)

## How the Ziolkowski ruling affects passport applications

If an EU8, EU2, Maltese, Cypriot or Croatian national was living in the UK before their country joined the EEA, you can accept it as part of their 5 year qualifying period, if they would have met article 7 of [Directive 2004/38/EC](#) (had it of been in force at the time). For example, in the case of:

- an EU8, Maltese or Cypriot national (whose country joined the European Union (EU) on 1 May 2004) who continuously lived in the UK as worker (in line with UK law) from 1 June 2000 to 1 June 2005:
  - they'll gain the right of permanent residence on 30 April 2006 (when Directive 2004/38/EC came into effect)
  - their child will only have a claim if they were born on, or after 30 April 2006 (as the EU8 national could only gain a right of permanent residence when Directive 2004/38/EC came in to effect)
- an EU2 national (whose country joined the EU on 1 January 2007) who continuously lived in the UK as a student (in line with UK law) from 1 June 2000 to 1 June 2005:
  - they'll gain a right of permanent residence on 1 January 2007 (when their country joined the EU)

- their child will only have a claim, if they were born on, or after 1 January 2007 (as the EU2 national could only gain a right of permanent residence when their country joined the EU)
- a Croatian national (whose country joined the EU on 1 July 2013) who continuously lived in the UK as a self-employed person (in line with UK law) from 1 January 2007 to 1 January 2012:
  - they'll gain a right of permanent residence on 1 July 2013 (when Croatia joined the EU)
  - their child will only have a claim, if they were born on, or after 1 July 2013 (as the Croatian national could only gain a right of permanent residence when Croatia joined the EU)

You must be aware:

- you must only accept an EU8, EU2, Maltese, Cypriot or Croatian national's period of residence in the UK before the date their country joined the EEA, if you have evidence they met the conditions of their leave in the UK - this may be shown in the passport they first used to enter the UK
- an EU8, EU2 or Croatian national working in the UK before the date their country joined the EEA, may have been exempt from needing permission to work in the UK (see Treaty rights: authorisation to work)
- EU8, EU2, Maltese, Cypriot and Croatian nationals must still meet all other Treaty rights conditions (in line with this guidance).

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# Treaty rights: Jersey, Guernsey and Isle of Man

This section tells HM Passport Office operational staff what to consider when dealing with a Treaty rights passport application that has a connection to Guernsey, Jersey or the Isle of Man.

The rules for European Economic Area (EEA) nationals are different when a Treaty rights passport application has a connection to Jersey, Guernsey or the Isle of Man.

## 2000 (EEA) regulations in Jersey, Guernsey and Isle of Man

Although the [Immigration \(European Economic Area \(EEA\)\) Regulations 2000](#) came into effect on 2 October 2000 in the UK, they did not come in to effect until later in Jersey, Guernsey and Isle of Man.

### Effect of 2000 (EEA) regulations in Guernsey

The Immigration (European Economic Area (EEA)) Regulations 2000 came into effect in Guernsey on 1 October 2004. This means a customer born from:

- 1 January 1983 up to, and including 30 September 2004 will have a claim, if the EEA national who the nationality claim relies on, exercised Treaty rights at the time of their birth
- 1 October 2004 up to, and including 29 April 2006 will have a claim, if at the time of their birth, the EEA national who the nationality claim relies on, had:
  - indefinite leave to remain (ILR)
  - indefinite leave to enter (ILE)
  - no time limit (NTL)

### Effect of 2000 (EEA) regulations in Jersey

The Immigration (European Economic Area (EEA)) Regulations 2000 came in to effect in Jersey on 31 March 2004. This means a customer born from:

- 1 January 1983 up to, and including 30 March 2004 will have a claim, if the EEA national who the nationality claim relies on, exercised Treaty rights at the time of their birth
- 31 March 2004 up to, and including 29 April 2006, will have a claim, if at the time of their birth, the EEA national who the nationality claim relies on, had:
  - ILR
  - ILE
  - NTL

## Effect of 2000 (EEA) regulations in the Isle of Man

The Immigration (European Economic Area (EEA)) Regulations 2000 came into effect on the Isle of Man on 9 February 2004. This means a customer born, from:

- 1 January 1983 up to, and including 8 February 2004 will have a claim, if the EEA national who the nationality claim relies on, exercised Treaty rights at the time of their birth
- 9 February 2004 up to, and including 29 April 2006 will have a claim, if at the time of their birth, the EEA national who the nationality claim relies on, had:
  - ILR
  - ILE
  - NTL

## Part residence in Jersey, Guernsey or the Isle of Man

During the 5 year qualifying period, EEA nationals must have exercised their Treaty rights wholly in the UK or Jersey, Guernsey or the Isle of Man. For example, a customer will not have a claim if the EEA national who the nationality claim relies on, exercised Treaty rights for the first 2 years in Wales and the remaining 3 years in the Isle of Man.

## Jersey, Guernsey and Isle of Man observations

You may see a passport we issued to a customer with a connection with Jersey, Guernsey or the Isle of Man with an observation that says:

**THE HOLDER IS NOT ENTITLED TO BENEFIT FROM EU PROVISIONS RELATING TO EMPLOYMENT OR ESTABLISHMENT**

This is because the Treaty of Accession confirmed a person who gets British citizenship through a connection with Guernsey, Jersey or the Isle of Man does not benefit from European Union (EU) provisions, unless they:

- and 1 of their parents (or grandparents) was born, adopted, naturalised or registered in the UK
- have been living in the UK for a continuous period of 5 years

As the UK left the EU on 31 December 2020, we no longer add this observation to British passports from 1 January 2021.

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# Treaty rights: break in residence

This section tells HM Passport Office operational staff dealing with Treaty rights passport applications what will (and will not) affect a European Economic Area (EEA) national's period of residence in the UK. It also tells them what to do if there are gaps in an EEA national's evidence, they give us to show they exercised Treaty rights.

When dealing with a Treaty rights passport application for a child born on, or after 30 April 2006, you may find:

- a European Economic Area (EEA) national was absent from the UK
- there are gaps in an EEA national's evidence they give us to show they exercised Treaty rights

## Treaty rights: break in residency

For an EEA national to have exercised Treaty rights, they need to have 5 years continuous residence in the UK. There are some circumstances that can break a period of residency and some that will not.

## Circumstances that will not affect a period of residency

An EEA national's period of residence in the UK is not broken if they spent time out of the UK for 6 months or less, in any 12 month period.

Providing the EEA national gives us evidence to show it, the following absence will also not break their period of residence in the UK:

- 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
  - parental leave
  - serious illness
  - study
  - vocational training
  - an overseas posting
  - court proceedings

This list is not exhaustive and you must consider other important reasons why the customer was out of the UK.

As EEA nationals can travel in and out of the UK without restrictions, you may not know if they have been absent from the UK. Therefore, you must accept they were in the UK unless there's clear evidence they were not.

## Circumstances that will affect a period of residency

Some circumstances will break an EEA national's period of residence.

### Break in residence: imprisonment

An EEA national's period of residence in the UK will be broken if they serve a prison sentence.

EEA nationals cannot add the time they spent exercising Treaty rights before and after serving a sentence together, to make up the 5 year qualifying period.

When an EEA national is released from prison, their initial 3 month right of residence does not apply and they had to immediately start to exercise a Treaty right.

### Break in residence: removed from the UK

An EEA national's period of residence in the UK will be broken if they were:

- removed from the UK
- given a deportation or exclusion order

## Treaty rights: gap in 5 year qualifying period evidence

If there's a gap in the evidence an EEA national uses to show they exercised Treaty rights for 5 continuous years, you must consider if it's because, they:

- were absent from the UK (taking in to account there are some circumstances that mean their period of residence will not be broken)
- they were in the UK but did not exercise Treaty rights

If an EEA national was not absent from the UK (or there's no evidence to suggest they were), we expect them to provide evidence to show they exercised Treaty rights throughout the qualifying period. If they cannot, you must:

1. Not immediately refuse the application.
2. Discuss the application with an operational team leader (OTL).

You, the OTL, must:

1. Check how long the period is that we do not have evidence for, as:
  - you must be satisfied the EEA national exercised Treaty rights
  - it's unlikely the EEA national exercised Treaty rights if they cannot provide the evidence that covers a long period of time (for example, 12 months or more).
2. Consider what other evidence the EEA national can provide to show they exercised Treaty rights (in line with supporting documents not available).
3. Make a decision using a balance of probability using all of the evidence you have.

## Absent from the UK for 2 or more years

If an EEA national is absent from the UK for 2 consecutive years, they'll lose:

- any rights given to them, by:
  - no time limit
  - indefinite leave to remain (unless they got it through the European Union Settlement Scheme (EUSS))
  - indefinite leave to enter
- any rights of permanent residence, this includes any rights that existed by someone who:
  - was exercising Treaty rights, who does not have a document certifying permanent residence
  - has a document certifying permanent residence card or a permanent residence card

If an EEA national was given indefinite leave to remain through the EUSS, they can be absent from the UK for up to 5 consecutive years, before they lose any rights.

As EEA nationals can travel in and out of the UK without restrictions, you must accept they were in the UK, unless there's clear evidence they were not.

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# Treaty rights: UKVI documents

This section tells HM Passport Office operational staff about some of the documents they may get as part of Treaty rights passport applications.

When dealing with an application for a customer whose claim is through a European Economic Area (EEA) national who exercised Treaty rights, you may get the following UK Visas and Immigration (UKVI) documents:

- document certifying permanent residence
- permanent residence card
- registration certificate
- residence card of a family member of an EEA national
- residence permit for a national of a member state of the EEC

You can find examples of them in the Knowledge Base

## Document certifying permanent residence

A document issued to an EEA national that says 'Document Certifying Permanent Residence' means, they:

- have a right of permanent residence, as they either
  - exercised Treaty rights for 5 years
  - exercised Treaty rights for less than 5 years as a worker or self-employed person who ceased activity (under regulation [5 of the Immigration \(European Economic Area\) Regulations 2016](#))
- are settled in the UK

You will not get a document certifying permanent residence when dealing with a passport application for a child born on, or before 29 April 2006 (as they only came in to affect from 30 April 2006).

If you get a document certifying permanent residence as part of a Treaty rights passport application, you must check:

- when it was issued
- the date the EEA national gained the right of permanent residence using the UKVI system (as it may show they gained it before the date UKVI issued the document certifying permanent residence)
- when the customer was born

A customer will have a claim without needing evidence the EEA national exercised Treaty rights, if either of the following apply:

- the EEA national was issued a document certifying permanent residence before the customer was born

- the UKVI system shows the EEA national gained a right of permanent residence before the customer was born

If an EEA national was granted the right of permanent residence after the customer was born, we need evidence the EEA national exercised Treaty rights (in line with this guidance). However, you may not need the evidence for the full 5 year qualifying period.

For example, in the case of a customer born on 1 January 2010 whose EEA national parent gained a right of permanent residence, on:

- 15 June 2012:
  - UKVI will have assessed if the EEA national qualified for the right of permanent residence going back to 15 June 2007 (5 years before they were gained the right of permanent residence)
  - you do not need Treaty rights evidence from 15 June 2007 onwards (as UKVI will have confirmed the EEA national parent met the qualifying conditions from this date)
- 15 June 2016:
  - UKVI will have assessed if the EEA national qualified for the right of permanent residence going back to 15 June 2011 (5 years before they were gained the right of permanent residence)
  - you need Treaty rights evidence for the full 5 year qualifying period (as UKVI will have only assessed if the EEA national qualified for the right of permanent residence from 15 June 2011)

You must be aware:

- from 1 July 2021, a document certifying permanent residence does not give an EEA national a right of residence in the UK (as EEA nationals who wanted to continue to live in the UK had to apply to European Union Settlement Scheme (EUSS))
- when dealing with an application for a customer born on, or after 1 July 2021 to an EEA national, you must refer to the EUSS guidance

## Permanent residence card

A document that says 'Permanent Residence Card' is issued to the non-EEA family member of an EEA national. It means, they:

- have a right of permanent residence, as the EEA national either
  - exercised Treaty rights for 5 years
  - exercised Treaty rights for less the 5 years as a worker or self-employed person who ceased activity (under regulation [5 of the Immigration \(European Economic Area\) Regulations 2016](#))
- are settled in the UK

For passport applications, you must, treat them in the same way as an EEA national who has a document certifying permanent residence.

## Registration certificate

You must not confuse a document issued to an EEA national that says 'Registration Certificate' with a registration certificate someone gets when they register a British citizen.

A document issued to an EEA national that says 'Registration Certificate':

- means they can live and work in the UK without restrictions
- does not mean they are settled in the UK

For passport applications, it means we still need evidence to show the EEA national who the nationality claim relies on, exercised Treaty rights (in line with this guidance).

You must refer to:

- Accession Worker Scheme: evidence, if an EU2 national gives you a Registration Certificate
- WRS: how to deal with the treaty rights application, if an EU8 national gives you a Registration Certificate
- Croatian worker: authorisation to work, if a Croatian national gives you a Registration Certificate

## Residence card of a family member of an EEA national

A document that says 'Residence Card of a Family Member of an EEA National' is a non-permanent residence card.

For passport applications, it means we still need evidence to show the EEA national who the nationality claim relies on, exercised Treaty rights (in line with the guidance).

## Residence permit for a national of a member state of the EEC

A document that says 'Residence Permit for a national of a member state of the EEC' (on a light blue document) is not proof an EEA national exercised Treaty rights. You must have evidence the EEA national exercised Treaty rights (in line with this guidance).

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# Treaty rights: born between 2 October 2000 and 29 April 2006

This section tells HM Passport Office operational staff how to deal with passport applications for a customer who was born in the UK from 2 October 2000 up to (and including) 29 April 2006 to a European Economic Area national parent.

The Immigration (European Economic Area (EEA)) Regulations 2000 came in to force:

- in the UK on 2 October 2000 in the UK and later in Jersey, Guernsey and the Isle of Man
- ended on 29 April 2006

While the regulations were in place:

- an EEA national could exercise Treaty rights for their own immigration purposes
- we do not consider an EEA national who exercised Treaty rights as settled when dealing with their child's passport application

You must refer to the British citizenship guidance to confirm their claim to British nationality, if they were born from:

- 2 October 2000 up to, and including 29 April 2006 in the UK
- 31 March 2004 up to, and including 29 April 2006 in Jersey
- 1 October 2004 up to and including 29 April 2006 in Guernsey
- 9 February 2004 up to, and including 29 April 2006 in the Isle of Man

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