

For use during private beta phase

EU Settlement Scheme – EU citizens and their family members

Version v1.0

Published for Home Office staff on 28 August 2018

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About this guidance

This guidance tells you how to consider applications under the EU Settlement Scheme during the private beta phase from 28 August 2018.

The EU Settlement Scheme provides a basis, consistent with the draft Withdrawal Agreement with the EU published on 19 March 2018, for EU citizens resident in the UK and their family members to apply for the UK immigration status which they will require to remain here beyond the end of the planned implementation period on 31 December 2020.

Immigration status granted under the EU Settlement Scheme is either indefinite leave to remain (ILR) or 5 years limited leave to remain (LTR).

The EU Settlement Scheme will be known as 'the scheme' for the purposes of this guidance.

Application process

During the private beta phase applicants must apply by using the relevant online application form.

In line with the draft Withdrawal Agreement, other than for proof of identity and nationality, applicants may submit a photocopy, photograph or scanned digital image of any required evidence. They need only submit the original document(s) where you have reasonable doubt as to the authenticity of the information submitted.

Cost of application

The application fee for the scheme is £65, or £32.50 for those aged under 16 on the date of application.

There is no application fee where the applicant has previously been issued a permanent residence document (a document certifying permanent residence or a permanent residence card issued by the UK under the Immigration (European Economic Area) Regulations 2006 or 2016), and this status:

- has not lapsed through absence from the UK for a period of more than 2 consecutive years; or
- has lapsed but the relevant absence is not more than 5 consecutive years; and, in either case
- has not been lost (for example because a deportation order or exclusion order has been made in relation to the applicant).

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There is no application fee where the applicant has previously been granted indefinite leave to enter (ILE) or ILR in the UK under another provision of the Immigration Rules, and this status:

- has not lapsed through absence from the UK for more than 2 consecutive years; and
- has not been revoked or invalidated.

There is no application fee where the applicant is a child being [‘looked after’](#) by a local authority.

Applicants under the scheme will not be required to pay the Immigration Health Charge.

Contacts

If you have any questions about this guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email the European Migration Policy Team.

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 the Guidance Rules and Forms Team.

Clearance

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

- version 1.0
- published for Home Office staff on 28 August 2018

Changes from last version of this guidance

This is new guidance.

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: CM 9675, 20 July 2018](#)

Who can apply

An application can be made where, at the date of application, the applicant is:

- an EU citizen (but not a British citizen); or
- a non-EU citizen who has been issued by the Secretary of State with a residence card or permanent residence card under the Immigration (European Economic Area) Regulations 2016 (“the EEA Regulations”), on the basis of an application made on or after 6 April 2015.

And, in addition, the applicant is:

- a student enrolled for study at, or a person on the payroll of, one of the following institutions
 - Liverpool Hope University
 - Liverpool John Moores University
 - The University of Liverpool

or:

- a person on the payroll of one of the following institutions
 - Aintree University Hospital NHS Foundation Trust
 - Blackpool Teaching Hospitals NHS Foundation Trust
 - Countess of Chester Hospital NHS Foundation Trust
 - East Lancashire Hospitals NHS Trust
 - Lancashire Teaching Hospitals NHS Foundation Trust
 - Liverpool Heart and Chest Hospital NHS Foundation Trust
 - Liverpool Women’s NHS Foundation Trust
 - Southport and Ormskirk Hospital NHS Trust
 - The Royal Liverpool and Broadgreen University Hospitals NHS Trust
 - The Walton Centre NHS Foundation Trust
 - Warrington and Halton Hospitals NHS Foundation Trust
 - Wirral University Teaching Hospital NHS Foundation Trust.

EU citizens

An EU citizen is defined in Annex 1 of Appendix EU as:

- a person who is a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania,

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Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain or Sweden.

Non-EU citizen family members

A non-EU citizen will be able to apply where they have previously been issued with a biometric residence card issued under the EEA Regulations, on the basis of an application made or after 6 April 2015, as a family member or former family member of an EU citizen.

Eligible family members

The categories of family member of an EU citizen who can apply are:

- spouse or civil partner
- durable partner (unmarried partnership akin to marriage or civil partnership)
- child, grandchild or great-grandchild (including of the spouse or civil partner)
- dependent parent, grandparent or great-grandparent (including of the spouse or civil partner)
- dependent relative (including of the spouse or civil partner where the applicant holds a relevant document in the UK as the result of an application made before 1 February 2017).

A non-EU citizen can also apply on the basis of retaining a right of residence, for further information please see [retained rights](#).

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: CM 9675, 20 July 2018](#)

Making an application - validity

This page tells you how to check an application is valid under rule EU9 of Appendix EU. You should check:

- it has been made in the UK using the required application process
- any required fee has been paid in full
- the required proof of identity and nationality has been provided
- the required biometrics have been provided.

Required application process

Applicants must apply by using the relevant online application form.

Required fee

For information on fees see [cost of application](#).

Required proof of identity and nationality

EU citizens

For an EU citizen, this will be their valid passport or their valid national identity card.

Irish citizens may, instead, provide their full birth certificate from Ireland or other official documentation which satisfies the decision-maker of their identity and Irish nationality.

Non-EU citizens

For a non-EU citizen, this will be their valid passport or their valid biometric residence card issued under the EEA Regulations or their valid biometric residence permit.

'Valid' here means that the document has not expired, been cancelled or invalidated.

In any case, you may accept alternative evidence of identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control (for example, a lack of consular services in the UK, or of a functioning administration in the country of origin) or for compelling practical or compassionate reasons.

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Each case must be considered on its individual merits and you must refer to a senior caseworker in all instances who will consider whether it is appropriate to accept the alternative evidence provided.

Evidence of the EU citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous residence (for the period on the basis of which they were granted status) in any subsequent application to the scheme.

Required biometrics

Under the Immigration (Provision of Physical Data) Regulations 2006 (as amended), all applicants will be required to provide a passport-style facial photograph of themselves (within the meaning of "biometric information" in section 15 of the UK Borders Act 2007) as part of the required application process.

Validity consideration

If an applicant submits an application which is missing any of the components required for it to be valid, they should first be prompted or contacted and given a reasonable opportunity to provide what is needed to validate the application.

Where the above requirements are met, the application should move to the 'eligibility' stage of the application consideration process.

Should any of the above requirements not be met after a reasonable opportunity has been afforded the applicant the application should be rejected as invalid.

Official - sensitive: start of section

The information on this page has been removed as it is restricted for internal Home Office use only.

Official - sensitive: end of section

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: CM 9675, 20 July 2018](#)

Making an application – eligibility

This section tells you the requirements for eligibility of an applicant for indefinite leave to remain (ILR) or 5 years limited leave to remain (LTR).

EU citizens

Confirmed residence of 5 years or more

An applicant who has been continuously resident in the UK for 5 years will be eligible for ILR where, since completing that 5 year period:

- they have not been absent from the UK for more than 5 consecutive years; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

Ceased activity

Where the applicant is continuously resident in the UK, they will be eligible for ILR with less than 5 years continuous residence, if they:

- were a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or having been a worker who has taken early retirement; and
 - immediately before that, they had been a worker or self-employed person in the UK for at least the preceding 12 months; and
 - had been continuously resident in the UK for more than the preceding 3 years

or:

- stopped being a worker or self-employed person owing to permanent incapacity to work; and
 - had been continuously resident in the UK for more than the preceding 2 years or

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- the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

or:

- were continuously resident in the UK for at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country, while retaining a place of residence in the UK to which they return, as a rule, at least once a week.

The conditions as to length of residence and length of employment in the first 2 provisions above do not apply where the EU citizen is the spouse or civil partner of a British citizen.

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Less than 5 years confirmed residence

An applicant who has been continuously resident in the UK for less than 5 years up to the date of application, and who does not benefit from one of the routes to ILR for those with less than five years continuous residence, will be eligible for 5 years limited leave to remain.

For further information on how to consider an application that meets these requirements please see [consideration of applications - limited leave to remain \(LTR\)](#) below.

Related content

[Contents](#)

Related external links

[Statement of changes to the Immigration Rules: CM 9675, 20 July 2018](#)

Family members

Who can apply as a family member?

The following family members of an EU citizen (including of a dual British-EU citizen in line with the Court of Justice of the European Union (CJEU) judgment in Lounes) will be eligible to apply, where they are continuously resident in the UK:

- [Spouse or civil partner](#)
- [Durable partner](#) (unmarried partner whose relationship is akin to marriage or civil partnership)
- [Child or stepchild under 21 of the EU citizen or their spouse or civil partner](#)
- [Dependent child or stepchild over 21 of the EU citizen or their spouse or civil partner](#)
- [Dependent parent of the EU citizen or their spouse or civil partner](#)
- [Dependent relative of the EU citizen](#) (including of the spouse or civil partner where the applicant holds a relevant document in the UK as the result of an application made before 1 February 2017).

Requirements

A relevant document

Wherever this guidance makes reference to 'a relevant document' it means the family permit, registration certificate, residence card, document certifying permanent residence or permanent residence card which:

- was issued by the UK under the EEA Regulations (and was not subsequently revoked because the relationship or dependency had never existed or had ceased); and
- has not expired or which remained valid for the period of residence relied upon.

5 years confirmed residence

A family member of an EU citizen who has been continuously resident in the UK for 5 years on that basis will be eligible for indefinite leave to remain (ILR) where, since completing that 5 year period:

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- they have not been absent from the UK for more than 5 consecutive years; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Ceased activity

Where the applicant is a family member of an EU citizen and is continuously resident in the UK, they will be eligible for ILR with less than 5 years continuous residence, if the relevant EU citizen:

- was a worker or self-employed person in the UK (within the meaning of the EEA Regulations) and then terminated that activity, having reached the age of entitlement to a state pension or having been a worker who has taken early retirement; and
 - immediately before that, they had been a worker or self-employed person in the UK for at least the preceding 12 months; and
 - had been continuously resident in the UK for more than the preceding 3 years

or:

- stopped being a worker or self-employed person owing to permanent incapacity to work; and
 - had been continuously resident in the UK for more than the preceding 2 years; or
 - the incapacity resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK

or:

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- was continuously resident in the UK for at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country, while retaining a place of residence in the UK to which they return, as a rule, at least once a week.

A family member of an EU citizen will be eligible for indefinite leave to remain (ILR) where:

- they have not been absent from the UK for more than 5 consecutive years; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

The conditions as to length of residence and of employment in the first 2 provisions above do not apply where the family member of an EU citizen is the spouse or civil partner of a British citizen.

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Death of the relevant EU citizen

Where the applicant is a family member of a relevant EU citizen who has died, the applicant will be eligible for settled status with less than 5 years continuous residence where the criteria in this section are met.

To be eligible for apply a family member of a relevant EU citizen who has died must:

- be the family member of a relevant EU citizen who was a worker or self-employed person in the UK at the time of their death; and
- the relevant EU citizen was resident in the UK for a continuous qualifying period of 2 years or more before dying, or the death was the result of an accident at work or an occupational disease; and
- the applicant was resident in the UK with the relevant EU citizen immediately before their death; and

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- they have not been absent from the UK for more than 5 consecutive years; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Retained rights

To be eligible to apply a family member of an EU citizen who has retained a right of residence must:

- be a non-EU citizen who is the spouse, civil partner, child or grandchild, dependent parent or grandparent, or documented durable partner or documented dependent relative of the relevant EU citizen resident in the UK and the EU citizen died; and
- have been resident in the UK for at least the year immediately before the death of the EU citizen.

Where the applicant is a child, the child must

- be a child of the relevant EU citizen who has died, or of their spouse or civil partner, immediately before their death; or
- be a child of a person who ceased to be a relevant EU citizen on ceasing to reside in the UK, or of their spouse or civil partner at that point.

In either event, the child must have been attending an educational course, apprenticeship or vocational training course in the UK immediately before the relevant EU citizen died or ceased to be a relevant EU citizen on ceasing to reside in the UK, and must continue to attend such a course.

or:

- the applicant is a parent with custody of such a child (meaning that the child normally lives with them or does so part of the time, and includes

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arrangements which have been agreed informally and those which are subject to a court order for determining with whom the child is to live and when).

or:

the applicant must:

- be a non-EU citizen who has ceased to be a family member of the relevant EU citizen on the termination of their marriage or civil partnership (for these purposes, where, after the initiation of the proceedings for that termination, that relevant EU citizen ceased to be a relevant EU citizen, they will be deemed to have remained a relevant EU citizen until that termination); and
- have been resident in the UK at the date of the termination; and
- meet one of the following:
 - prior to the initiation of the proceedings for the termination of the marriage or the civil partnership, the marriage or civil partnership had lasted for at least 3 years and the parties to the marriage or civil partnership had been continuously resident in the UK for at least 1 year during its duration; or
 - the applicant has custody of a child of the EU citizen; or
 - the applicant has the right of access to a child of the EU citizen, where the child is under the age of 18 years and where a court has ordered that such access must take place in the UK; or
 - the continued right of residence in the UK of the applicant is warranted by particularly difficult circumstances, such as where the applicant or another family member has been a victim of domestic violence or abuse whilst the marriage or civil partnership was subsisting.

For further information on how to consider an application that meets these requirements please see [consideration of applications for indefinite leave to remain \(ILR\)](#) below.

Less than 5 years residence

A family member of an EU citizen who has been continuously resident in the UK for less than 5 years up to the date of application, but does not benefit from one of the routes to ILR identified above for those with less than 5 years continuous residence above, will be eligible for 5 years limited leave to remain (LTR).

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For further information on how to consider an application that meets these requirements please see [consideration of applications - limited leave to remain \(LTR\)](#) below.

Assessing relationship

Where the applicant is an EU citizen resident in the UK as a family member of an EU citizen resident here, the applicant will be able to rely on their own continuity of residence as an EU citizen to apply for status. An EU citizen family member of an EU citizen will not need to provide evidence of their relationship to that person unless:

- they are relying on that relationship in one of the categories eligible for settled status with less than 5 years continuous residence
- they are relying on a retained right of residence after that relationship has ended
- they became an EU citizen within a period of continuous residence in which they otherwise rely on having been a non-EU family member of an EU citizen.

Otherwise, the following family members of an EU citizen (including of a dual British-EU citizen in line with the CJEU judgment in Lounes) who is continuously resident here will be eligible to apply for status under the scheme on the basis of their relationship to an EU citizen. The following detailed criteria apply in respect of each of these categories of family member at the date the person applies under the scheme.

Spouse

The applicant is (or for the relevant period was) party to a marriage with the EU citizen and the marriage is recognised under the law of England and Wales, Scotland or Northern Ireland; and it is (or for the relevant period was) not a marriage of convenience; and neither party has (or for the relevant period had) another spouse, civil partner or durable partner with immigration status in the UK based on that person's relationship with that party.

Where the applicant does not already hold a permanent residence document, a spouse must provide evidence of the family relationship for the relevant period, namely a relevant document as the spouse of the relevant EU citizen or a valid document of record of a marriage recognised under the law of England and Wales, Scotland or Northern Ireland.

Civil partner

The applicant is (or for the relevant period was) in a valid civil partnership (which exists or existed under or by virtue of the Civil Partnership Act 2004) or in a same sex relationship registered overseas (entitled to be treated as a civil

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partnership under that Act) with the relevant EU citizen; it is (or for the relevant period was) not a civil partnership of convenience; and neither party has (or for the relevant period had) another civil partner, spouse or durable partner with immigration status in the UK based on that person's relationship with that party.

Where the applicant does not already hold a permanent residence document, a civil partner must provide evidence of the family relationship for the relevant period, namely a relevant document as the civil partner of the relevant EU citizen; a valid civil partnership certificate recognised under the law of England and Wales, Scotland or Northern Ireland; or the valid overseas registration document for a same sex relationship which is entitled to be treated as a civil partnership under the Civil Partnership Act 2004.

Durable partner

The applicant is (or for the relevant period was) in a durable relationship with a relevant EU citizen, with the couple having lived together in a relationship akin to marriage or civil partnership for 2 years or more, unless there is other significant evidence of the durable relationship, for example, evidence of joint responsibility for children (birth certificate or custody agreement showing they are cohabiting and sharing responsibility for children).

The durable partnership must not be one of convenience; and neither party has (or for the relevant period had) another spouse, civil partner or durable partner with immigration status in the UK based on that person's relationship with that party.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the durable partner of the relevant EU citizen for the period of residence relied upon; and unless this confirms the right of permanent residence in the UK under regulation 15 of the EEA Regulations, evidence which satisfies you that the durable partnership continues to subsist (or did so for the period of residence relied upon). This evidence might, for example, take the form of:
 - evidence of cohabitation for 2 years (bank statement or utility bills in joint names at the same address, rental agreements or mortgage contracts, official correspondence which links them at the same address)
 - evidence of joint finances, business ventures or commitments (tax returns of business contracts, investments).

This is not an exhaustive list and applications should be considered on a case by case basis.

Marriage, civil partnership or durable partnership of convenience

A marriage, civil partnership or durable partnership of convenience is defined as a marriage, civil partnership or durable partnership of convenience entered into as a means to circumvent:

- any criterion the party would have to meet in order to enjoy a right to enter or reside in the UK under the EEA Regulations; or
- any other provision of UK immigration law or any requirement of the Immigration Rules; or
- any criterion the party would otherwise have to meet in order to enjoy a right to enter or reside in the UK under EU law.

Child or stepchild under 21

The applicant must be the direct descendant of the EU citizen or of their spouse or civil partner (and includes a grandchild or great-grandchild). In addition, 'child' includes:

- an adopted child of; or
- a child born through surrogacy (where recognised in UK law) for; or
- a child in respect of whom a special guardianship order (within the meaning of section 14A(1) of the Children Act 1989) is in force appointing as their special guardian; or
- a child in respect of whom an order has been made under section 5 of the Children Act 1989 appointing as their guardian, (as the case may be) the relevant EU citizen or their spouse or civil partner.

It does not include a child cared for by the EU citizen or by their spouse or civil partner solely by virtue of a formal or informal fostering arrangement, but this does not prevent an application being made by or on behalf of a 'looked after' child whom the local authority has placed in foster care.

'Looked after' in this context means the care comes within the meaning of section 22(1) of the Children Act 1989, section 17(6) of the Children (Scotland) Act 1995, section 74(1) of the Social Services and Well-being (Wales) Act 2014 or article 25(1) of the Children (Northern Ireland) Order 1995.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

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- a relevant document issued on the basis of the relevant family relationship; or
- the full birth certificate or other document(s) which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EU citizen or of their spouse or civil partner.

In the case of an adopted child, surrogate child or a child subject to any of the orders above you should discuss the case with your senior caseworker who may choose to refer to the European Migration Policy Team for further advice.

Child over 21

The applicant must be the direct descendant of the EU citizen or of their spouse or civil partner (and includes a grandchild or great-grandchild) and dependent on the relevant EU citizen or on their spouse or civil partner.

‘Dependent’ means, as per the CJEU judgment in Reyes, that, as demonstrated by relevant financial, medical or other documentary evidence:

- having regard to their financial and social conditions, or health, the applicant cannot, or for the relevant period could not, meet their essential living needs (in whole or in part) without the financial or other material support of the relevant EU citizen or of their spouse or civil partner; and
- such support is, or was, being provided to the applicant by the relevant EU citizen or by their spouse or civil partner; and
- where the applicant was aged 21 years or over when they came to the UK to join the EU citizen or their spouse or civil partner, the need for such support existed in the applicant’s state of origin or in the state from which they came to the UK, but there is no need to determine the reasons for that dependence or for the recourse to that support.

In addition, ‘child’ includes:

- an adopted child of; or

a child born through surrogacy (where recognised in UK law) for; or

- a child in respect of whom a special guardianship order (within the meaning of section 14A(1) of the Children Act 1989) is in force appointing as their special guardian; or
- a child in respect of whom an order has been made under section 5 of the Children Act 1989 appointing as their guardian (as the case may be) the relevant EU citizen or their spouse or civil partner.

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It does not include a child cared for by the EU citizen or by their spouse or civil partner solely by virtue of a formal or informal fostering arrangement, but this does not prevent an application being made by or on behalf of a 'looked after' child whom the local authority has placed in foster care.

'Looked after' in this context means the care comes within the meaning of section 22(1) of the Children Act 1989, section 17(6) of the Children (Scotland) Act 1995, section 74(1) of the Social Services and Well-being (Wales) Act 2014 or article 25(1) of the Children (Northern Ireland) Order 1995.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document issued on the basis of the relevant family relationship; or
- the full birth certificate or other document(s) which you are satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EU citizen or of their spouse or civil partner.

In the case of an adopted or surrogate child you should discuss the case with your senior caseworker who may choose to refer to the European Migration Policy Team for further advice.

You must be satisfied the applicant is dependent on the relevant EU citizen or on their spouse or civil partner. This evidence might take the form of:

- evidence of their dependency, for example, financial evidence of dependency, such as bank statements or money transfers between the applicant and the relevant EU citizen or their spouse or civil partner
- evidence of their dependency prior to coming to the UK, if appropriate.

There may be circumstances where the child over 21 does not receive financial support but they are still living in the family home and are unable to live independently, for example due to low income or they may be in further education and remain dependent on a parent for essential needs. These circumstances should be considered on a case by case basis.

Dependent parent

The applicant must be the direct relative in the ascending line of the EU citizen or their spouse or civil partner (and includes a grandparent or great-grandparent). Dependency is assumed and the applicant is not required to provide evidence of this.

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Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document issued on the basis of the relevant family relationship; or
- the full birth certificate(s) or other document(s) which you are satisfied evidences that the applicant is the direct relative in the ascending line of the relevant EU citizen or of their spouse or civil partner.

Dependent relative

The applicant is a relative of their sponsor (but must not be their spouse, civil partner, durable partner, child or dependent parent) who holds a relevant document as the dependent relative of their sponsor for the period of residence relied upon.

Their sponsor means:

- a relevant EU citizen who has been or is being granted indefinite leave to remain or limited leave to remain under the scheme (or who would be granted that leave, if they made a valid application to the scheme); or
- the spouse or civil partner of such a relevant EU citizen, where the application for that relevant document was made before 1 February 2017.

Where the applicant does not already hold a permanent residence document, the applicant must provide evidence of the family relationship for the relevant period, namely:

- a relevant document as the dependent relative of their sponsor; and, unless this confirms the right of permanent residence in the UK under regulation 15 of the EEA Regulations, evidence which satisfies you that the relationship and dependency continue to subsist (or did so for the period of residence relied upon).

Other evidence

In addition to the criteria set out above, where the family member applying for status under the scheme is a non-EU citizen without the documented right of permanent residence, their status here under EU law depends on their current or past family relationship to an EU citizen resident in the UK. Therefore, the applicant will need to provide proof of the identity and nationality of the EU citizen of whom the applicant is the family member (or was so for the relevant period). This will be:

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- in the case of an EU citizen, their valid passport or their valid national identity card
- in the case of an Irish citizen, their valid passport or their full birth certificate from Ireland or other official documentation which satisfies you of their identity and Irish nationality.

You may accept alternative evidence of the identity and nationality where the applicant is unable to obtain or produce the required document due to circumstances beyond their control or to compelling practical or compassionate reasons.

The applicant will also need to provide evidence which satisfies you of the relevant EU citizen's continuous residence in the UK as well as their own. Evidence of the EU citizen having been granted status under the scheme will constitute sufficient evidence of that person's identity, nationality and continuous residence (for the period on the basis of which they were granted status).

Also, where the eligibility requirements to be met for leave to be granted under the scheme relate to the death of a person, the required evidence of family relationship must include their death certificate or other evidence which you are satisfied evidences the death.

Applications in respect of children

Under section 55 of the Borders, Immigration and Citizenship Act 2009, the Home Office has a duty to have regard to the need to safeguard and promote the welfare of children under the age of 18 who are in the UK. In respect of this guidance, the section 55 duty means you need to identify and act on any concerns about the welfare of any child of whom you become aware while considering an application under the scheme.

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Suitability

Rules EU15 and EU16 of Appendix EU set out criteria for an application to be refused on suitability grounds.

EU15 sets out mandatory grounds of refusal:

- under EU15(a) of [Appendix EU](#), an applicant must be refused if they are the subject of an extant deportation order or of a decision to make a deportation order at the date of decision
- under EU15(b), an applicant must be refused if they are the subject of an extant exclusion order or exclusion decision at the date of decision
- under EU15(c), an applicant must be refused if they are the subject of a removal decision under the EEA Regulations on the grounds of their non-exercise or misuse of rights under [Directive 2004/38/EC at the date of decision](#).

Applicants (over the age of 18) are required to provide information about previous criminal convictions in the UK and overseas, and are only required to declare overseas convictions which appear in their criminal record in accordance with the law of the State of conviction.

Applicants are also required to declare whether they have any been involved in any terrorist related activities, war crimes, crimes against humanity or genocide. All applications are subject to a check against the Police National Computer (PNC) and the Warnings Index (WI).

From information provided by the applicant and obtained from the PNC and WI, you will conduct an initial assessment of suitability, taking account of length of previous residence where relevant, to establish whether the application should be referred to Immigration Enforcement (IE) for full case-by-case consideration of the individual's conduct under the public policy, public security or public health test as set out in the [EEA Regulations 2016](#) and EEA Public Policy and Security Guidance. If an enforcement decision is then made by IE that falls within EU15, you must refuse the application.

EU16 provides you may refuse an application where you are satisfied at the date of decision:

- in relation to the application and whether or not to the applicant's knowledge, false or misleading information, representations or documents have been submitted (including false or misleading information submitted to any person to obtain a document used in support of the application); and

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- the information, representation or documentation is material to the decision whether or not to grant the applicant leave under this Appendix; and
- the decision to refuse the application on this basis is proportionate.

Rule EU16 of [Appendix EU](#) is a discretionary provision. When considering whether to refuse under rule EU16, you should examine whether the deception is material to the decision to grant leave under the scheme. This is where the false or misleading evidence or information affects the applicant's ability to meet the requirements of [Appendix EU](#).

Where the applicant or a third party has submitted false information, representations or documents which are material to the decision, whether or not to the applicant's knowledge, you may then refuse the application under this provision, provided it is proportionate to do so.

Further guidance will be published for both EU15 and EU16 in due course but if there are instances during the private beta phase where the above circumstances apply you must discuss with your senior caseworker who should refer to the European Migration Policy Team for further advice.

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Qualifying residence

Continuity of residence

Being continuously resident in the UK (where the applicant has been so for less than 5 years) generally means that the applicant has not been absent from the UK for more than 6 months in total in any 12 month period.

There are some exceptions:

- a single period of absence of more than 6 months but which does not exceed 12 months is permitted, where this is for an important reason, such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting:
 - evidence to support an absence as a result of pregnancy, childbirth or serious illness might take the form of a letter or other records from a qualified medical professional
 - evidence to support an absence as a result of study, vocational training or an overseas posting might take the form of a letter or other records from the relevant educational establishment or employer
- any period of absence on compulsory military service:
 - evidence to support a period of absence as a result of compulsory military service might take the form of a letter or other records from the relevant government body.

Continuity of residence is broken, and restarts from scratch on release, where the applicant served or is serving a sentence of imprisonment of any length in the UK, unless:

- the applicant has resided in the UK continuously for at least 10 years (and has the right of permanent residence in the UK under the EEA Regulations); and
- you consider that they had forged integrating links with the UK (such as family and social ties and employment history) which were not broken by imprisonment; and
- overall, it would not be appropriate to treat imprisonment as breaking continuity of residence.

If there are instances where the above circumstances apply you must discuss with your senior caseworker who should refer to the European Migration Policy Team for further advice.

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Continuity of residence is also broken by any of the following, unless it has been set aside or no longer has effect in respect of the person:

- any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
- a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

If there are instances where the above circumstances apply you must discuss with your senior caseworker who may refer to European Migration Policy team or Immigration Enforcement colleagues for further advice.

Automated checks (Application Programming Interface (API))

In all cases in which the applicant provides their National Insurance number checks will be run against HMRC records to establish what those records tell us about the applicant's recent continuous residence in the UK.

Where these checks indicate that the applicant has been continuously resident in the UK for at least 5 years, and where the applicant has confirmed, by way of a self-declaration as part of the application process, that they have not since been absent from the UK for a period of more than 5 consecutive years, no further evidence of residence will be required to determine eligibility. The applicant will be asked to confirm this is correct and, subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted (ILR).

Where these checks indicate that the applicant has been continuously resident in the UK for less than 5 years, and the applicant confirms this (and does not claim to qualify for settled status on the basis of less than 5 years continuous residence), no further evidence of residence will be required to determine eligibility. Subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted 5 years limited leave to remain (LTR).

Where these checks indicate that the applicant has been continuously resident in the UK for less than 5 years, and the applicant does not accept this (or claims to qualify for settled status on the basis of less than 5 years continuous residence) the applicant will be asked to provide documentary evidence, to satisfy you of their eligibility for ILR. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILR. If they do not meet the eligibility requirements for ILR but have been continuously resident in the UK for less than 5 years, subject to evidence of the relevant family

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relationship (where relevant) and to identity and suitability checks, they should be granted LTR.

Where these checks do not provide any evidence of the applicant's UK residence, or the applicant does not provide a National Insurance number, the applicant will be asked to provide documentary evidence, to satisfy you that they meet the requirements for eligibility for either ILR or LTR. If the applicant does so, and subject to evidence of the relevant family relationship (where relevant) and to identity and suitability checks, the applicant will be granted ILR or LTR as appropriate.

See [Annex A](#) for further information on evidence to be provided where automated checks do not confirm continuity of residence as claimed by the applicant.

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Consideration of applications - indefinite leave to remain (ILR)

An applicant who has made a valid application will be eligible for indefinite leave to remain (ILR) as a relevant EU citizen or their family member where you are satisfied (including, where applicable, by the required evidence of family relationship) one of the conditions of rule EU11 of Appendix EU is met:

- [Permanent residence \(PR\) document holders](#)
- [Indefinite leave to remain \(ILR\) or indefinite leave to enter \(ILE\) holders](#)
- [Applicant has completed a continuous qualifying period of 5 years](#)
- [A relevant EU citizen who is a person who has ceased activity](#)
- [Family member of a relevant EU citizen who is a person who has ceased activity](#)
- [Family member of a relevant EU citizen who has died](#)
- [Child under the age of 21 years of a relevant EU citizen or of their spouse or civil partner.](#)

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Permanent residence (PR) document holders

Under condition 1 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that they have a documented right of PR and no supervening event has occurred.

Requirements

You must be satisfied that, at the date of application:

- the applicant has been issued with a document certifying permanent residence or a permanent residence card under the EEA Regulations
- the document or card was issued or renewed within the last 10 years, and is not invalid under regulation 19(4)(c) because the applicant never had a right of permanent residence
- the document or card has not been revoked, and its renewal has not been refused under regulation 24 (except where the revocation or refusal occurred because the applicant had been absent from the UK for a period of more than 2, and no more than 5, consecutive years)
- the person's right to reside has not been cancelled under regulation 25.

In addition, you must be satisfied that no supervening event has occurred. A supervening event means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of PR in the UK, or since they last completed a period of 5 years continuous residence in the UK; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

Evidence to be produced

The applicant must provide confirmation, via self-declaration within the application process, that they have not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA

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Regulations, or since they last completed a period of 5 years continuous residence in the UK.

As set out above, you must be satisfied that the applicant has been issued with a document certifying permanent residence or a permanent residence card under the EEA Regulations.

If an applicant cannot provide the PR document or its reference number, for example because it's damaged or obscured, or it never had one, you should check Home Office records and, if there is no record available, contact the applicant for further details such as approximate date of issue to narrow any searches. If there is still no trace the applicant should be invited to submit the document for you to consider. In these circumstances you must discuss this with your senior caseworker.

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If the applicant has been subject to a decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations or a decision to which regulation 15(4) of the EEA Regulations otherwise refers (unless that decision arose from a previous decision under regulation 24(1)), you must discuss with your senior caseworker before further action is taken.

Where an applicant has declared that they have a documented right of PR and they have not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence in the UK under regulation 15 of the EEA Regulations, or since they last completed a period of 5 years continuous residence in the UK, but it is identified during the caseworking process that this is not the case, the applicant is not eligible for ILR under this condition. If the applicant had relied on their PR documentation as the basis for a fee exemption, this exemption does not apply and the application must be rejected as invalid on the grounds of non-payment of the required fee.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their eligibility for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Miss A has applied on the basis of having permanent residence and has supplied her valid permanent residence card. There is no evidence to suggest that her permanent residence has lapsed. The application should be considered eligible for ILR.

Scenario 2

Mrs B applies and states that she has permanent residence, but information indicates that when she applied for her permanent residence document to be renewed her application was refused as she had been absent from the UK for more than 2 years since it was issued.

Evidence provided confirmed that Mrs B was out of the UK for 3 continuous years and this does not therefore constitute a supervening event. The application should be considered eligible for ILR.

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Indefinite leave to enter (ILE) or indefinite leave to remain (ILR) holders

Under condition 2 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that they are a relevant EU citizen, or a family member of a relevant EU citizen, and there is valid evidence of their ILE or ILR.

Requirements

You must be satisfied that, at the date of application, there is valid evidence of the applicant's ILE or ILR which means:

- the applicant has been issued with a valid biometric residence permit, a valid stamp or endorsement in a passport (whether or not the passport has expired), or other valid document issued by the Home Office confirming that the applicant has ILE or ILR in the UK; or
- you are otherwise satisfied from the information available to you the applicant has indefinite leave to enter or remain in the UK; and
- in either case, the status has not lapsed (by an absence from the UK of more than 2 consecutive years) or been revoked or invalidated (for example, because a deportation order has been made against the applicant).

Evidence to be produced

The applicant must provide confirmation, via self-declaration within the application process, that their ILR or ILE has not lapsed through absence from the UK of more than 2 consecutive years or been revoked or invalidated.

As set out above, you must be satisfied that there is valid evidence of the applicant's ILE or ILR.

If an applicant cannot provide their ILE/ILR document or its reference number see [applicants unable to provide evidence of historic ILR / ILE](#) below.

For information on evidence required to assess relationships with family members of EU citizens see [assessing relationship](#).

Applicants unable to provide evidence of ILE / ILR

Where an applicant applies on the basis of having ILR or ILE but does not have documentary evidence of this status, you should check all existing Home Office records to confirm whether the Home Office holds any information confirming the status being claimed by the applicant. Where Home Office records confirm the status, you should accept this as evidence of that status.

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If the applicant is unable to provide any evidence of their status, and no such evidence exists in Home Office records, you are unable to grant the application under this condition.

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Where an applicant has declared that their ILR or ILE has not lapsed through absence from the UK of more than 2 consecutive years or been revoked or invalidated but it is identified during the caseworking process that their status has, in fact, lapsed or been lost, you are unable to grant the application under this condition.

If the applicant had relied on their ILE or ILR status as the basis for a fee exemption, then, as the fee exemption does not apply, the application must be rejected as invalid on the grounds of non-payment of the required fee.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Mr C is the non-EU spouse of an EU citizen, and has applied on the basis of having ILR in the UK. He has provided his expired passport which contains a valid stamp confirming that he has been granted ILR along with evidence of his marriage to an EU citizen and there is no evidence to suggest that he has been absent from the UK for more than 2 consecutive years. The application should be considered eligible for ILR.

Scenario 2

Dr D, an EU citizen, claims to have been granted ILR but states that she has lost the relevant document.

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Home Office records confirm that Dr D was granted ILR as claimed and there is no evidence to suggest this has lapsed or been revoked or invalidated, the application should be considered eligible for ILR.

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Applicant has completed a continuous qualifying period of 5 years

Under condition 3 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that the applicant is:

- a relevant EU citizen; or
- a family member of a relevant EU citizen; or
- a family member who has retained the right of residence

and

- has completed a continuous qualifying period of 5 years in any (or any combination) of the above categories; and
- since then no supervening event has occurred.

Requirements

You must be satisfied that, at the date of application, the applicant has completed a period of 5 years continuous residence in the UK as a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence (or in any combination of those categories).

In addition, you must be satisfied that since then no supervening event has occurred, which means that, at the date of application:

- the applicant has not been absent from the UK for a period of more than 5 consecutive years at any point since they last acquired the right of permanent residence (PR) in the UK, or since they last completed a period of 5 years continuous residence in the UK; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect:
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

Evidence to be produced

Automated checks will be undertaken with HMRC as part of the application process which may provide evidence that the applicant has completed a period of 5 years continuous residence in the UK. See [automated checks](#) for further information.

Should these checks not provide sufficient evidence of residence in the UK the applicant will be invited to provide evidence that, when combined with the evidence supplied by the automated HMRC checks, confirms that they have completed a period of 5 years continuous residence in the UK see [Annex A](#).

The applicant must also provide a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of PR in the UK, or since they last completed a period of 5 years continuous residence in the UK.

For information on evidence required to assess relationships with family members of EU citizens see [assessing relationship](#).

For guidance on the requirements to be met by a family member who has retained the right of residence, see [retained rights](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Professor E has applied on the basis of being a French citizen who has been living in the UK continuously for the past 8 years. Automated checks from HMRC confirm that he has been working in the UK for 7 years. The data runs up to the month before his application so it is not possible for him to have been absent for more than 5 consecutive years since then, and there is no evidence of any other supervening event. The application should be considered eligible for ILR.

Scenario 2

Mrs F has applied on the basis of being the Brazilian spouse of her Italian husband, the relationship and relevant identities are confirmed. She claims that both she and her husband have been resident in the UK since 2012.

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Home Office records show her husband was issued with a document certifying permanent residence in 2017 and automated checks show that Mrs F was employed from 2013-2015 only. Mrs F provides council tax bills for the period 2015-2018 dated and addressed to both her and her husband. The application should be considered eligible for ILR.

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A relevant EU citizen who has ceased activity

Under condition 4 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that the applicant is:

- a relevant EU citizen who is a person who has ceased activity; and
- since they did so, no supervening event has occurred.

Requirements

You must be satisfied that, at the date of application, the applicant is a person who has ceased activity. Further detail on this is set out below.

In addition, you must be satisfied that since then no supervening event has occurred, which means that, at the date of application:

- the applicant has not have been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK, or since they last completed a period of 5 years continuous residence in the UK; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations
 - a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

Retired

You must be satisfied that, at the date of application, the applicant:

- has terminated activity as a worker or self-employed person in the UK and either
 - reached the [age of entitlement to a state pension](#) on terminating that activity; or
 - in the case of a worker, ceased working to take early retirement; and
- immediately before that termination

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- was a worker or self-employed person in the UK for at least 12 months; and
- was continuously resident in the UK for a period of more than 3 years.

The conditions above as to length of residence and of employment do not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EU citizen is the spouse or civil partner of a British citizen.

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of the applicant's retirement, for example, a relevant HMRC form, letter from employer, pension statements
- evidence of employment in the UK for at least 12 months before retirement in the form of, for example, pay slips or letter from employer
- evidence that they were continuously resident in the UK for more than 3 years before retirement (either from the automated checks with HMRC or as provided by the applicant)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity.

See [Annex A](#) for examples of documents to be submitted to confirm residence in the UK.

Permanent incapacity

You must be satisfied that, at the date of application, the applicant has:

- stopped being a worker or self-employed person owing to permanent incapacity to work
 - having been continuously resident in the UK for a period of at least the preceding 2 years; or
 - the incapacity having resulted from an accident at work or an occupational disease that entitles the person to a pension payable in full or in part by an institution in the UK.

The condition above as to length of residence does not apply where you are satisfied, including by the required evidence of family relationship, that the relevant EU citizen is the spouse or civil partner of a British citizen.

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Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of their permanent incapacity to work, in the form of, for example, a letter from their hospital consultant; or
- evidence of an accident at work or an occupational disease, in the form of, for example, a letter from a hospital consultant; and
 - confirmation, in the form of a letter or pension statements, that the occupational disease entitles the applicant to a pension payable in full or in part by an institution in the UK

and:

- evidence (where relevant) that they were continuously resident in the UK for a period of at least the preceding 2 years (either from the automated checks with HMRC or as provided by the applicant)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity.

See [Annex A](#) for examples of documents to be submitted to confirm residence in the UK.

Worker or self-employed person who has retained a place of residence

You must be satisfied that, at the date of application, the applicant was continuously resident in the UK for a period of at least 3 years as a worker or self-employed person, immediately before becoming a worker or self-employed person in another EU country. Also, they must have retained a place of residence in the UK to which they return, as a rule, at least once a week.

Being a ‘worker’ means that there is evidence which satisfies you that the applicant is either:

- a worker as defined in regulation 4(1) of the EEA Regulations; or
- a person who is no longer working but who continues to be treated as a worker within the meaning of “qualified person” under regulation 6.

Being a ‘self-employed person’ means that there is evidence which satisfies you that the applicant is either:

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- a self-employed person as defined in regulation 4(1) of the EEA Regulations; or
- a person who is no longer in self-employment but who continues to be treated as a self-employed person within the meaning of “qualified person” under regulation 6.

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence of continuous residence in the UK for a period of at least 3 years (either from the automated checks with HMRC or as provided by the applicant);
- evidence of having been a worker or self-employed person in the UK for that period of at least 3 years, in the form of, for example, pay slips or letter from employer;
- evidence of becoming a worker or self-employed person in another EU country immediately after leaving the UK, in the form of, for example, pay slips or letter from employer;
- evidence of retaining a place of residence in the UK to which the applicant returns, for example, utility bills; and
 - evidence that the applicant returns to this place, as a rule, at least once a week, for example travel tickets
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since they became a person who has ceased activity.

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the requirements in any of the above sub-sections, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the requirements in one of the above sub-sections, you must consider their application for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Mr G, a 68 year old French national, has applied on the basis of being a retired worker since 2016. Automated checks from HMRC show that he was in employment in the UK for 3 years before retiring, and statements provided

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confirm he has been in receipt of a pension since 2016. The application should be considered eligible for ILR.

Scenario 2

Ms H, a German national, has been living in the UK since 2014. She worked from 2014-2017 before she was injured in an industrial accident and was unable to continue work as a result. A letter from her hospital consultant confirms she is no longer able to work in any capacity, automated checks from HMRC confirm her period of work as claimed and she has confirmed via self-declaration that she has not left the UK since and there is no evidence to suggest otherwise. The application should be considered eligible for ILR.

Scenario 3

Professor J, a Greek national, has applied on the basis of being a worker with a retained place of residence in the UK. She claims that she has lived in the UK from 2012-2016 and has since been working in the Czech Republic whilst returning to her house in the UK at least once a week.

The automated checks from HMRC show that she was employed in the UK for the period claimed, and she has provided payslips and bank statements evidencing her employment in the Czech Republic. Professor J has also provided utility bills for her address in the UK from 2016 to the time of application and flight history showing that she returns to the UK every weekend. The application should be considered eligible for ILR.

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Family member of a relevant EU citizen who is a person who has ceased activity

Under condition 5 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a family member of a relevant EU citizen who is a person who has ceased activity; and
- the applicant was such a family member at the point the EU citizen became a person who has ceased activity; and
- the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it); and
- since the relevant EU citizen became a person who has ceased activity, no supervening event has occurred.

Requirements

You must be satisfied that, at the date of application:

- the applicant is a family member of a relevant EU citizen, and was so at the point the relevant EU citizen became a person who has ceased activity
- the relevant EU citizen is a person who has ceased activity
- the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it).

In addition, you must be satisfied that since the relevant EU citizen became a person who has ceased activity, no supervening event has occurred, which means that, at the date of application:

- the applicant has not have been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK or since they last completed a period of 5 years continuous residence in the UK; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations

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- a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that the relevant EU citizen is a person who has ceased activity and that the applicant was their family member when they did so. For further information on ceased activity see [ceased activity](#) above
- evidence that the relevant EU citizen has been or is being granted ILR under the scheme (or would be granted that leave, if they made a valid application under it), for example, previous documentation issued or current application reference number
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since the relevant EU citizen became a person who has ceased activity.

For information on evidence required to assess relationships with family members of EU citizens see [assessing relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Mrs K, a 60 year old Chinese citizen, has applied on the basis of being the spouse of an EU citizen who ceased activity in 2015. She has provided her marriage certificate and husband's passport, and documents that show that her husband was in employment for 3 years before retiring and since 2015 he has been in receipt of a pension. A self-declaration that neither the applicant or her husband have been outside the UK for a continuous period is not necessary as Mrs K only became a person who ceased activity 3 years ago. No other evidence of a supervening event is present. The application should be considered eligible for ILR.

Scenario 2

Mr L, a Mexican citizen, has applied at the same time as his wife, a Swedish citizen, who has ceased activity. A marriage certificate has been provided to confirm relationship and casework action on Mrs L's application has resulted in a grant of ILR as an EU citizen who has ceased activity. A self-declaration confirms neither Mr or Mrs L have been absent from the UK since 2016. The application should be considered eligible for ILR.

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Family member of a relevant EU citizen who has died

Under condition 6 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a family member of a relevant EU citizen who has died and the relevant EU citizen was in the UK as a worker or self-employed person at the time of their death; and
- the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before dying, or the death was the result of an accident at work or an occupational disease; and
- the applicant was resident in the UK with the relevant EU citizen immediately before their death and since then no supervening event has occurred.

Requirements

You must be satisfied that, at the date of application:

- the applicant is a family member of a relevant EU citizen who has died, and the applicant was resident in the UK with the relevant EU citizen immediately before their death
- the relevant EU citizen was resident in the UK as a worker or self-employed person at the time of their death
- the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before dying, or the death was the result of an accident at work or an occupational disease.

In addition, you must be satisfied that since the death of the relevant EU citizen, no supervening event has occurred, which means that, at the date of application:

- the applicant has not have been absent from the UK for a period of more than 5 consecutive years, at any point since they last acquired the right of permanent residence in the UK, or since they last completed a period of 5 years continuous residence in the UK; and
- none of the following events has occurred in respect of the applicant, unless it has been set aside or no longer has effect
 - any decision or order to exclude or remove under regulation 23 or 32 of the EEA Regulations

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- a decision to which regulation 15(4) of the EEA Regulations otherwise refers, unless that decision arose from a previous decision under regulation 24(1).

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that that the applicant was resident in the UK with the relevant EU citizen when they died
- evidence that the relevant EU citizen was resident in the UK as a worker or self-employed person at the time of their death
- evidence that the relevant EU citizen was continuously resident in the UK for a period of at least 2 years before their death, or the death was the result of an accident at work or an occupational disease (such as a letter from a qualified medical professional, for example a hospital consultant or GP)
- a self-declaration that they have not been absent from the UK for a period of more than 5 consecutive years since the relevant EU citizen died.

For information on evidence required to assess relationships with family members of EU citizens see [assessing relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Mrs M is a Sri Lankan citizen, who was married to a Danish citizen. Both were employed together in the UK for 10 years and she claims they continuously resided together in the UK since they were married 13 years ago. After a short illness, Mr M passed away in 2016. Mrs M has provided a marriage certificate and Mr M's passport and death certificate. Mrs M has also provided Mr M's payslips which confirm that he was in employment immediately before his death in 2016. Mrs M has also confirmed that she has not left the UK other than for short holidays. The application should be considered eligible for ILR.

Scenario 2

Dr N is a Brazilian citizen who was married to Mr N, a French national in the UK who had been working for 6 years. Mr N has died after contracting an occupational disease; this is confirmed by both his death certificate and hospital consultant letter. Dr N has provided a marriage certificate and Mr N's French ID card. P60s confirm Mr N's employment as claimed and Dr N has declared that she has only left the UK for short holidays. The application should be considered eligible for ILR.

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Child under the age of 21 years of a relevant EU citizen or of their spouse or civil partner

Under condition 7 in rule EU11 the applicant meets the eligibility requirements for indefinite leave to remain (ILR) where you are satisfied that:

- the applicant is a child under the age of 21 of a relevant EU citizen or of their spouse or civil partner; and
- the relevant EU citizen (or their spouse or civil partner) has been or is being granted indefinite leave to remain under the scheme; or
- in the case of an Irish citizen who has not made a valid application under the scheme, they would be granted that leave if they made such an application.

Evidence to be produced

Evidence which may be relevant to the requirements above includes:

- evidence that the applicant is the child of the relevant EU citizen, or of their spouse or civil partner, for example, a birth certificate and a marriage certificate if applicable
- evidence that the relevant EU citizen, or their spouse or civil partner, has been or is being granted ILR under the scheme

or:

- if the child's parent is an Irish citizen who has not made a valid application, evidence they would be granted ILR if they made such an application. For example, their valid passport, national identity card or full birth certificate and evidence of 5 years continuous residence in the UK, with no subsequent supervening event.

For information on evidence required to assess relationships with family members of EU citizens see [assessing relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, the applicant is eligible for ILR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, you must consider their application for ILR under the other eligibility conditions and otherwise their eligibility for 5 years limited leave to remain (LTR).

Scenario 1

Miss O, a 12 year old Argentinean citizen, has applied as the daughter of her Portuguese mother, Mrs O. She has provided her birth certificate which confirms her relationship to Mrs O and a Mrs O's reference number confirming a grant of ILR under the scheme, which you have confirmed by checking Home Office records. The application should be considered eligible for ILR.

Scenario 2

Mr P, a 16 year old Ecuadorian citizen, has applied as the son of Miss P, who is in a civil partnership with Miss Q, a Latvian citizen. A birth certificate and civil partnership certificate have been produced to confirm both relationships are as claimed and Miss Q's passport confirms that she is a Latvian national.

Reference numbers provided confirm both Miss P and Miss Q have been granted ILR under the scheme. The application should be considered eligible for ILR in line.

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Consideration of applications – 5 years limited leave to remain (LTR)

An applicant who has made a valid application but does not meet the eligibility requirements for indefinite leave to remain (ILR) under rule EU11 will be eligible for 5 years limited leave to remain (LTR) where you are satisfied including, where applicable, by required evidence of family relationship, that at the date of application:

- the applicant is a relevant EU citizen, a family member of a relevant EU citizen or a family member who has retained the right of residence; and
- the applicant is not eligible for ILR solely because they have been continuously resident in the UK for less than 5 years.

Evidence to be produced

Automated checks will be undertaken with HMRC which may provide evidence that the applicant has completed a continuous period of residence in the UK of less than 5 years. See [automated checks](#) for further information.

Should these checks not provide any evidence of residence in the UK the applicant should be invited to provide evidence that confirms that they have completed a period of continuous residence in the UK. See [Annex A](#) for examples of the forms of evidence that they may provide to do so.

For information on evidence required to assess relationships with family members of EU citizens see [assessing relationship](#).

Decision

If you are satisfied, on the balance of probabilities, that the applicant meets the above requirements, they will be eligible for LTR.

If, however, you are not satisfied, on the balance of probabilities, that the applicant meets the above requirements, the application should be refused as ineligible. For further information, please see [refusals](#) section below.

Official - sensitive: start of section

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Refusals

There is no basis to refuse a valid application under the scheme beyond the eligibility and suitability conditions set out in Appendix EU, which are consistent with the draft Withdrawal Agreement.

A valid application under Appendix EU which does not meet the eligibility requirements for indefinite leave to remain or limited leave to remain will be refused under rule EU6.

Further information on refusing an application will be published in due course. In the meantime, should this information be required, you should discuss with your senior caseworker who may refer to the European Migration Policy Team for further advice.

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Annex A

Evidence required to establish residence in the UK

Many people will have their residence confirmed by automated checks of HMRC data. However, where those checks indicate that an applicant who does not hold a permanent residence document has been continuously resident in the UK for a period of less than 5 years – or do not indicate that the applicant has been and remains continuously resident here – the applicant will be able to upload documentary evidence to satisfy you that they are continuously resident here and, where appropriate, that they have been so for at least 5 years or that they are in one of the categories eligible for ILR with less than 5 years residence.

This Annex provides a list of the type of documentary evidence which the applicant will be able to provide. The guidance below is not prescriptive or definitive. Some applicants may lack documentary evidence in their own name for various reasons; you should work flexibly with applicants to help them evidence their continuous residence in the UK by the best means available to them. The applicant may submit several types of evidence to cover their claimed period of continuous residence. For example, a dated and signed letter from an employer confirming a 12 month period of UK-based employment which has been undertaken, and confirmation of the employer's status, may be submitted as evidence of residence in the relevant 12 month period and bank statements may be submitted as evidence of residence in the subsequent 12 month period.

You may request further evidence of residence if appropriate and must ensure that the applicant is given reasonable opportunity to provide it before a decision on the application is made.

Preferred evidence

The documents listed below are preferred evidence because a single document may cover a significant period. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers.

- an annual bank statement or an account summary covering a 12-month period, showing payments received or spending in the UK in at least six months of that rolling year
- annual business accounts of a self-employed person
- a dated and signed letter from an employer, confirming the duration of a period of UK-based employment which has been undertaken, and confirmation of the employer's status (such as registration with HMRC)

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or Companies House). This will be considered evidence of residence for the period of that employment

- a P60 for a 12-month period (you may request additional evidence to confirm that the person has been resident in the UK for at least 6 months of that period)
- a P45 confirming the duration of a period of employment which has ceased. This will be considered evidence of residence for the period of that employment
- a dated and signed letter from an accredited organisation in the UK confirming physical attendance at a course and its duration, or confirming enrolment on a course accompanied by dated and signed evidence of completion (such as a qualification certificate). This will be treated as evidence of residence for the duration of the course
- a dated and signed letter from a registered care home confirming the period of residence in the home. This will be treated as evidence of residence for that period
- a dated, addressed invoice from an accredited organisation for school, college or university fees for education requiring physical attendance in the UK, which includes the name of the student, and accompanying evidence of payment. This will be treated as evidence of residence for the relevant academic term(s) or year
- documentation issued by the student finance body for England, Wales, Scotland or Northern Ireland or the Student Loans Company that shows a UK address, such as an entitlement notification or repayment statement. This will be treated as evidence of residence for the relevant academic term(s) or year
- a residential mortgage statement or tenancy agreement, and accompanying evidence of the mortgage or rent being paid (for example, confirmation from the lender or landlord), will be treated as evidence of residence for the period covered by the statement or agreement
- a dated, addressed council tax bill will be treated as evidence of residence for the period covered by the bill
- evidence of an employer making pension contributions will be treated as evidence of residence for the period covered by the contributions where the employment requires physical presence in the UK.

Alternative Evidence

Because the documents listed below cover a shorter period, the applicant may need to submit more of them to evidence that they meet the residence requirement. Where an applicant submits evidence from this list, a single piece of evidence is likely to be sufficient for the period it covers.

- A dated invoice for work physically done in the UK. This will be treated as evidence of residence for the month in which it is dated
- a dated, UK addressed domestic utility bill featuring the applicant's name will be treated as evidence of residence for the period covered by the bill
- a dated, UK addressed domestic bill or contract for a mobile or fixed line telephone or for a TV or internet service featuring the applicant's name will be treated as evidence of residence for the period covered by the bill or contract
- a dated letter from a UK GP or other healthcare professional confirming the applicant's attendance at appointment(s), or a card issued by the healthcare professional confirming those appointment(s). This will be treated as evidence of residence for the period covered by the appointments (or for the month in which a single appointment occurred)
- a dated letter, or benefit claims made to, a UK government department, another UK public body or a UK charity confirming the applicant's physical interaction with them, for example Job Centre Plus or Citizens' Advice or a registration card or certificate issued under the Worker Registration Scheme. This will be treated as evidence of residence for the month in which it is dated, unless it explicitly confirms interactions over a longer period
- other dated, UK addressed domestic bills, e.g. for insurance, vets' bills or home services/repairs, featuring the applicant's name and accompanying evidence of payment will be treated as evidence of residence for the month in which the bill is dated
- a passport stamp confirming entry at the UK border. This will be treated as evidence of residence for the month of entry
- a used travel ticket confirming previous inbound travel to the UK. This will be treated as evidence of residence for the month of entry.

Unacceptable evidence

The documents listed below are not from an official or other impartial source, or are not accessible by Home Office caseworkers, and so are not acceptable as evidence of continuous residence for the scheme and should not be provided.

- Character references or testimonials from family and friends
- photographs of a wedding or other special occasion
- greetings cards or postcards sent or received
- a personal scrapbook or similar.

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