

ILPA information sheet

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European Free Movement

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The European Economic Area (EEA) is made up of the 25 members of the European Union (EU), and three other European countries. Switzerland is not a member of either the EU or the EEA. However, European free movement rights also apply in respect of Switzerland as if it were in the EEA.

This information sheet provides information about free movement rights within the area of the EEA. The information presented here relates directly to the rights of EEA nationals, and their family members, in the UK. However, it is important to note that the rights described here apply equally to UK nationals, and their family members, in other EEA nations.

Members of the EU

Before 1 May 2004, the EU nations were Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the UK.

On 1 May 2004, Cyprus (but not that under Turkish control), the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia joined the EU.

On 1 January 2007, Romania and Bulgaria joined the EU.

Members of the EEA

All EU nations are members of the EEA. Iceland, Liechtenstein and Norway are also members of the EEA.

General principle of free movement

As a general principle EEA nationals, with their families, are permitted free movement throughout the area of the EEA. These nationals are not, therefore, generally subject to immigration controls. This is intended to promote economic activity. It means, for example, that a French or Slovenian national is free to come to the UK, just as a UK national is free to move to Italy or Bulgaria.

Initial right of residence

An EEA national is free to reside in the UK for a period of three months. He or she may do so with certain family members, whatever the nationality of those family members. After three months, an EEA national may stay in the UK. However, to benefit fully from EEA rights he or she must be a 'qualified person' (see below).

Who is a qualified person and what does this mean?

An EEA national in the UK will be a 'qualified person' if he or she is here as a:

- worker
- job seeker
- self-employed person or someone providing services
- student
- retired or economically self-sufficient person

Certain family members, whatever their nationality, of a qualified person are entitled to be in the UK to be with that qualified person. They will be entitled to work in the UK. They may also be entitled to access social, health and other services and benefits. This applies to:

- the spouse or civil partner, dependent children, parents and parents-in-law of a qualified person.
- any children, who are not dependent, up to age 21 years of a qualified person (who is not a qualified person by being a student)
- any family members, who are dependent, in the ascending line (i.e. parents, grandparents etc.) of a qualified person (who is not a qualified person by being a student)
- in certain circumstances, other family members of a qualified person such as brothers, sisters and unmarried partners

Restrictions on access to the job market

Generally speaking, an EEA national has free access to the UK job market. However, on 1 May 2004, the UK introduced restrictions on access to the job market for eight of the ten new EU nations. Those ten EU nations are listed above. The UK restrictions do not apply to Cyprus and Malta. On 1 January 2007, the UK introduced restrictions on access to the job market for the two new EU nations. Those two EU nations are listed above.

More information on these restrictions is given in the "A8 and A2 Free Movement" information sheet.

Permanent residence

An EEA national (or his or her family member) will acquire a permanent right of residence in the UK after living here for five years. If the person leaves the UK for a period of two years or more, that right will be lost. Otherwise, the permanent right of residence cannot be lost unless the person is expelled from the UK (see below).

Expulsion and exclusion

In limited circumstances an EEA national (or his or her family member) may be refused entry into the UK (excluded) or required to leave the UK (expelled). This is only permitted for reasons relating to public health, public policy or public security. Whether it is permissible to expel or exclude the person will depend on all the circumstances of the individual's case. It will not be permissible to expel or exclude someone simply because he or she is the family member of someone who may be expelled or excluded for one of these three reasons. Someone who has a right of permanent residence can only be expelled or excluded if there are particularly serious reasons of public policy or public security for doing so. If the person has been residing in the UK for 10 or more years, only reasons of public security will be relevant and these must be 'imperative' (this is a very high threshold).