Permanent residence
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15 February 2017
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Agenda for today

- Brexit – the implications
- Permanent residence
  - Acquisition
  - Eligibility requirements
  - Application process
- Practical tips
- Questions
‘Brexit means Brexit’

- Recent developments
- The current status of EEA nationals
- Possible future developments
- Actions EEA nationals should consider
  - Confirming permanent residence
  - Registration certificates
  - Naturalisation
Permanent residence overview
Overview

- Relevant for EEA nationals and third country nationals
- Settled status – few restrictions on stay in UK
- Acquired automatically on meeting relevant conditions
- PR application confirms (rather than grants) status
  - Residence Card (TCNs)
  - Certification of Permanent Residence (EEA nationals)
Acquisition

- EEA nationals acquire PR after ‘residing legally’ in the UK for a continuous period of 5 years
- Family members who have resided legally with EEA national for same period also acquire PR
Family members

- Primary family members
- Durable partners
- Other family members
Residing legally

- EEA nationals have initial right of residence for 3 months
- Right of residence beyond 3 months if ‘qualified person’
  - Worker (which includes jobseekers)
  - Self-employed
  - Student
  - Self-sufficient person
Residing legally

- Can use a mix of ‘qualified person’ categories to cover 5 year period
Continuous residence

- Continuity broken by periods of absence from UK exceeding 6 months in total in any year
- But continuity not broken by:
  - Periods of absence from the UK on military service
  - Any one absence not exceeding 12 months for important reason such as pregnancy/childbirth, serious illness, study or vocational training, overseas posting, or other ‘important reasons’.
Evidencing continuous residence

- Documents in support (see EEA(PR) guidance notes)
  - Previous EEA residence documents
  - Bank statements
  - Council tax / utility bills
  - Mortgage statements
  - Tenancy agreements
The general loss rule

- PR lost by absence from the UK of more than 2 consecutive years
- Revocation on grounds of public policy, public security, public health, or abuse of rights
- More flexibility with naturalisation
‘Qualifying person’ categories
1. Worker – employed work

What activities constitute employed work?

- Genuine and effective activities of economic value
- Part-time work counts, including where income supplemented by benefits
- Activities must not be on such a small scale as to be ‘marginal and ancillary’
1. Worker – minimum earnings

- Minimum earnings threshold
  - Primary Earnings Threshold (point where employees pay class 1 NICs) – currently £155 per week
  - Not compulsory, but uphill battle if not met
1. Worker – jobseeker requirements

- What is required for jobseekers?
  - Evidence of seeking employment and genuine chance of being engaged

- Submit as much evidence as possible
1. Worker – temporary work cessation

- Temporarily unable to work due to illness or accident
  - Not time limited – but must not be permanent
  - Reasonable prospect of returning to work

- Pregnancy
  - If cease work due to physical constraints of late stage pregnancy or birth aftermath will retain worker status if return to work within reasonable period after birth
1. Worker – temporary work cessation

- Involuntary unemployment after having been employed
  - Registered as job seeker and evidence of seeking employment and genuine chance of being engaged, or
  - Embarked on vocational training

- Voluntarily ceased working and embarked on vocational training related to previous employment
2. Student – key requirements

- Enrolled student
- Comprehensive sickness insurance (CSI) cover
- Not a burden on social assistance system of UK
- Students who work part-time may be able to count as ‘workers’ (so CSI not required)
2. Student - CSI

- Medical insurance that covers inpatient, outpatient and emergency treatment

- Provide
  - Comprehensive insurance policy document
  - EHIC (issued by another member state)
  - Forms for reimbursement of medical treatment for certain individuals (eg, S1, S2 or S3)
2. Student – CSI

- A common problem
- Prior to 20 June 2011 students were not required to have CSI
- All family members required to have had CSI in place from 22 June 2015
3. Self-employed – key requirements

- Genuine and effective economic activities
- Bears risk for success or failure of work
- Paid directly
- HMRC guidance on employment status
- Minimum earnings threshold
3. Self-employed – cessation

- Status retained only where temporarily unable to pursue activity as the result of illness or accident
4. Self-sufficient - overview

- Consider if not employed, self-employed or studying
- But note requirements
  - CSI cover in UK (for each family member)
  - Sufficient resources not to become a burden
4. Self-sufficient - CSI

- Medical insurance that covers inpatient, outpatient and emergency treatment

- Provide
  - Comprehensive insurance policy document
  - EHIC (issued by another member state)
  - Forms for reimbursement of medical treatment for certain individuals (eg, S1, S2 or S3)
Acquiring PR early

- Can acquire PR early in limited circumstances
  - Retirement
  - Permanent incapacity to work
  - Family members of a worker of self employed person who dies

- Detailed requirements apply
A8 nationals, Romania and Bulgaria

- Additional restrictions applied on accession
- Full compliance with additional restrictions required
Application process
Application process

- Form EEA(PR)
  - 85 page postal application form
  - Online form (and some recent changes)
- European passport return service for online forms
- Original documentation to be provided in support
- Treat guidance notes as a starting point
- Modernised Guidance
Application process

- £65 fee for each person included in application
- Timeframe
  - 6 months for Residence Cards
  - ASAP for documents certifying permanent residence
  - No Premium Service option
- Passports and ID cards
- Biometrics for TCNs
Relevance for naturalisation

- Rules changed on 12 November 2015
  - PR card / certification of PR must be submitted for naturalisation applications
- Beware of impact of naturalisation on EU freedom of movement rights
- Naturalisation absence thresholds different from permanent residence absence thresholds
Practical tips

- Retain original evidence of
  - Qualified status – eg, payslips, P60s, tax returns, invoices/bank statements, CSI, evidence of studies
  - Relationship/dependency
  - All travel outside the UK – eg, flight tickets, receipts
Registration certificates

- If not acquired PR, consider applying for a Registration Certificate (Form EEA(QP))
Helpful documents

- Application form and guidance notes
- Modernised Guidance
- GOV.UK website
- Nationality Instructions for naturalisation
Questions