



THE AIRE CENTRE

Advice on Individual Rights in Europe



I am a family member of an EEA national – what do I need to apply under the EU Settlement Scheme?

If you are an EEA national who is also a family member of another EEA national, you can apply under the Settlement Scheme in your own right or as a family member.

If you are not an EEA national but you have resided in the UK with an EEA national who is entitled to apply under the EU Settlement Scheme, you can also make an application under the Scheme.

What are the criteria for applying as a family member?

In addition to the general criteria regarding criminal background and no supervening event (see our information note on [*Who can apply under the EU Settlement Scheme?*]) you will have to meet the following criteria:

- The EEA national who is your family member must be eligible for settled or pre-settled status under the EU Settlement Scheme, and must therefore meet the criteria of one of the relevant categories (see our information notes on [*Who can apply under the EU Settlement Scheme?*])
- You must have resided in the UK with the EEA national; and
- You must fall within the definition of ‘family member’ and provide evidence of your relationship (e.g. birth certificate or marriage certificate).

Who counts as a family member?

The definition of family member includes the following:

- (A) spouse or civil partner of the EU national, provided that the marriage or civil partnership was formed before 31 December 2020;
- (B) durable partner of the EU national, provided that the partnership was formed and durable before 31 December 2020 and remains durable at the date of application;
- (C) child or other descendant (e.g. grandchild) of the EU national, including child or descendant of the spouse / civil partner –
 - (1) who is either under the age of 21;

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- (2) who is dependent on the EU national or their spouse / civil partner for financial or other material support necessary to meet their essential living needs; or
- (3) if the EU national has died or left the UK, provided that the child was attending an education course and continues to attend such course;
- (D) dependent parent or grandparent of the EU national or their spouse / civil partner (note that the dependence of such parent or grandparent is assumed); and
- (E) other relative of the EU national or their spouse / civil partner residing in the UK before 31 December 2020 and who –
 - (1) is dependent, a member of the EU national's household or in strict need of personal care on serious health grounds, and such dependence existed before 31 December 2020; and
 - (2) holds a document such as an EEA family permit, registration certificate, residence card or permanent residence card (in the case of relative of spouse / civil partner, such document must have been applied for before 1 February 2017).

If the EEA national holds a permanent residence card, or holds indefinite leave to enter / remain, or has resided in the UK for at least 5 continuous years, then the following persons may also apply as family members:

- (A) a family member of an EEA national who has died, provided that the family member has resided in the UK for at least 1 year immediately prior to the death;
- (B) a parent of a child who falls within paragraph (C) above;
- (C) an ex-spouse or civil partner where the marriage or civil partnership was terminated (i.e. the final order was made by court) and –

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- (1) the marriage or civil partnership lasted for at least 3 years and the parties to it were resident in the UK for at least 1 continuous year before initiating divorce proceedings;
- (2) the person has custody or right of access to a child (where the child is under 18) of the EEA national; or
- (3) the continued right of residence in the UK is warranted by particularly difficult circumstances (such as domestic violence or abuse during the marriage or civil partnership).

Can I apply as a family member of an EEA national if the EEA national passed away?

Yes, provided that:

- (D) the EEA national was resident in the UK as a worker or self-employed person at the time of their death;
- (E) the EEA national was resident in the UK for at least 2 years prior to their death, or their death was the result of an accident at work or an occupational disease; and
- (F) you were resident in the UK with the EEA national immediately before their death.

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