

# European Union (EU) law

Under European Union (EU) law, there is freedom of movement within the European Economic Area (EEA) and Switzerland for nationals of the EEA/Switzerland.

The EEA consists of the EU members states, plus Iceland, Liechtenstein and Norway.

As well as free movement within the EEA/Switzerland for EEA/Swiss nationals, there are rights to work; to seek work; to be temporarily unemployed; to be self-employed; and to study. These are known as "treaty rights".

If you are an EEA/Swiss national, you do not need a visa to enter the UK. You can stay in the UK for up to three months without exercising your treaty rights (you do not need to be studying, working, or looking for work), but if you wish to stay for longer than three months, you will need to show you are exercising your treaty rights by being a worker, self-employed person, self-sufficient person or student.

After five years of continuously exercising your treaty rights in the UK as an EEA national, you are entitled to 'permanent right of residence' in the UK and no longer have to be exercising treaty rights.

Under EU free movement law, you also have the right to have certain family members reside with you, such as a spouse/civil partner; child or grandchild under 21 years old; and dependent parents/grandparents. These family members will also acquire permanent right of residence after five years of residing with you while you exercise your treaty rights.

You do not need to have EU residence documents to access these rights, but it can be useful to have them (eg residence card or family permit) to prove you have these rights.

There are circumstances in which your right to reside/permanent residence in the UK under EU can be revoked, for example after serving a criminal sentence in the UK. The UK government would have to show that deportation is in interests of "the public good, public health or public security". The threshold for showing that deportation is in one or more of these interests is generally higher for EEA nationals than the "public good" arguments for deportation of non-EEA nationals. The threshold is also determined by the length and permanence of your residence in the UK - for example, the threshold is higher for those with the right to permanent residence in the UK.

## Surinder Singh

Although the UK is a member of the EU and therefore British citizens are EEA nationals, British citizens living in the UK are generally not exercising their 'treaty rights' to free movement (because they are exercising their right to reside in the UK as a British citizen rather than as an EEA national).

This means they generally do not have access to the right to bring **non-EEA national family members** (such as a spouse/partner) come to live in the UK with them, in the way that a German national or French national living in the UK would.

An exception to this is when the British citizen has been exercising treaty rights in another EEA state (not the UK), then moves back to the UK and applies for their family member to be able to live with them in the UK. If the British citizen was exercising their EU treaty rights in the other EEA state, their return to the UK is considered free movement under EU law because that brings with it the right to return. As the return is considered free movement, the British citizen is exercising their treaty rights by returning to the UK and this brings with it the right to be joined by certain family members.

Applying for a family member's right to remain in the UK this way is known as a **Surinder Singh** application, because of the 1992 case law that established the right to do this under EU law.

There is no fixed time period that a British citizen has to exercise their treaty rights in another EEA state in order to make a Surinder Singh application to have a family member live with them in the UK. However, case law on this issue generally suggests that the longer the period, the easier it will be to establish the right applies to you.

The UK Home Office refuses a large number of Surinder Singh applications, often claiming 'abuse' - that either the family relationship is not genuine, or that the period spent in the other EEA state was done merely to obtain Surinder Singh rights by "circumventing" UK immigration rules.

If you are considering the Surinder Singh route, or are currently making a Surinder Singh application, you may find it useful to contact the organisation BritCits: [www.britcits.blogspot.co.uk](http://www.britcits.blogspot.co.uk) or join this Facebook support group: [www.facebook.com/groups/650212281695959](https://www.facebook.com/groups/650212281695959)