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A yellow starburst graphic with the word "BREXIT" in blue capital letters inside.

9. British citizenship for EEA and Swiss nationals

In light of the uncertainties following the UK decision to withdraw from the European Union (EU), some nationals of European Economic Area (EEA) countries and Switzerland are considering whether to apply for British citizenship. This information sheet identifies when applying for British citizenship may be disadvantageous, the circumstances in which people may already have British citizenship and how EEA and Swiss nationals may become British.

Circumstances in which British citizenship may be disadvantageous

Applying for British citizenship may be disadvantageous for EEA and Swiss nationals where:

- **The person is from a country that does not permit dual citizenship.** If a person's country does not allow them to hold a second nationality, applying for British citizenship could lead to the loss of their existing nationality. Since British citizens may lose EU rights of free movement in Europe after the UK leaves the EU, an EEA or Swiss national may prefer to retain their existing nationality and their EU citizenship rights. A person must check the law in their country on whether dual citizenship is permitted and whether there are restrictions, such as the only permitted nationality being that of an EU member state. In such cases, nationality lawyers in their country will need to be consulted as to what may happen when the UK leaves the EU.
- **The person has family members who would not qualify for leave to remain in the UK as the family member of a British citizen.** Once an EEA or Swiss national gains British citizenship, the rules relating to British citizens apply to them rather than EU law even if they have retained their existing EEA or Swiss nationality. This means that family members who do not have their own right of residence (for example, as an EEA/Swiss national qualifying as a worker, self-employed person, or student or self-sufficient person under EU law) will need to qualify for leave to remain under the immigration rules. These have more onerous requirements than the provisions in EU law. For example, a British citizen who wishes to be joined by their spouse in the UK needs to have sufficient income or savings to meet the minimum income threshold under the rules. It is also difficult for British citizens to be joined in the UK by children over the age of 18 years or by their parents and grandparents as the immigration rules for this category are restrictive. The provisions of EU law are more inclusive.

People who may already be British citizens

Some EEA and Swiss nationals living in the UK will have children who were automatically British when they are born and who can apply for a British passport with the relevant evidence. Anyone born in the UK before 01 January 1983 (except the children of diplomats) will be British. After that date, children born before 2 October 2000 to EEA or Swiss nationals exercising a right of residence of UK at the time of the birth will be British. Children born in the UK on or after 2 October 2000 will be British if their EEA or Swiss parent had permanent residence in the UK at the time of the birth.

Children are also born British if they are born in the UK to a parent who was a British citizen or was settled in the UK with indefinite leave to enter or remain at the time of their birth or (after 13 January 2010) was a serving member of the UK armed forces at the time of their birth, though if the parents were not married, they may only gain their father's British nationality automatically if they were born on or after 01 July 2006 and there is proof of paternity. Unless the parents later marry and take the necessary administrative steps, those born before 1 July 2006 need to apply to

register as a British citizen (see below). Other provisions recognise children as British after adoption by a British citizen under procedures in the UK or other recognised countries.

Children born overseas are British if they were born on or after 1 January 1983 to a mother (or father if the parents were married) who did not themselves acquire their British nationality overseas through their parent ('by descent'). Before that date, only the father's nationality could be passed to the child and only if he was married to the child's mother.

Registration as a British citizen

Registration is a simpler process than naturalisation for becoming British for certain people eligible to apply and is the only means by which a child not born British can become British. People who gain permanent residence in the UK under EU law, people who gain settlement or British citizenship or those who serve in the UK armed forces after their child is born may register their child as British under this process provided they apply before the child is 18 years old. The parent does not need to obtain a document certifying their permanent residence before registering their child. Adults or children who would have automatically been British if their father had been married to their mother are eligible to register as British, as are those born in the UK after 1 January 1983 and who lived in the UK for the first ten years of their life without being absent for more than 90 days in any year. In almost all cases, applicants over 10 years old need to be of good character in order to apply but there are not the same requirements regarding residence, English language and knowledge of life in the UK as there are for naturalisation.

Applying to naturalise as a British citizen

An adult may apply to become a British citizen through a process called naturalisation. EEA and Swiss nationals who have had permanent residence in the UK for at least one year and have been legally resident in the UK for five years in total may apply. If their spouse or civil partner is a British citizen, they only need to have permanent residence (without needing to have had it for one year) and to have been legally resident for three years in total.

EEA and Swiss nationals need to apply for documents confirming their permanent residence documents before they can apply for naturalisation. The Home Office letter issued with the document certifying permanent residence will indicate when the Home Office accepts that permanent residence was obtained. This is the date from which the length of time that a person has held permanent residence will be calculated. It is possible to go back to the Home Office with arguments and evidence about why they should accept an earlier date. It is the date of gaining permanent residence and not the date of obtaining the permanent residence document that matters for citizenship. This means that a person who gained permanent residence over a year ago may apply for citizenship as soon as they receive their document certifying their permanent residence.

There are a number of other important criteria that must be met (or waived in some instances) in order to be considered for naturalisation. Applicants need to:

- Be of good character, with consideration given to any criminal convictions (whether they are spent or not), their security risk, experience of bankruptcy and immigration history;
- Have sufficient knowledge of English, Welsh or Scots Gaelic;
- Have sufficient knowledge of life in the UK (shown by taking a test at an approved centre);
- Intend to make the UK their principle home (unless they are a spouse or civil partner of a British citizen or fall within some limited exceptions); and
- Meet further residence requirements as to permitted absences from the UK, which are more restrictive than those permitted for EU citizens to qualify for UK rights of residence.

The application is made on form AN and there is a fee payable of £1282. This includes an £80 fee for the citizenship ceremony that successful applicants must attend to take an oath of allegiance to the Queen. Both the form and further information on the requirements are available at:

<https://www.gov.uk/government/publications/application-to-naturalise-as-a-british-citizen-form-an> .

There is no right of appeal against a decision not to naturalise someone as a British citizen but a person may apply to the Home Office for the application to be reconsidered if incorrect law and policy has been applied. Otherwise judicial review is the only remedy available.