

## **Factsheet on rights for nationals of European states and those with an enforceable Community right**

Under certain circumstances individuals who are "exempt persons" can benefit from the provisions of the Medical Act.

This is an extremely complex area and this guidance gives only general information. If you believe you benefit from an EC right, you are strongly advised to seek professional advice from a lawyer specialising in rights for nationals of European states and those with an enforceable Community right. The GMC cannot give you advice and it is your responsibility to demonstrate to the GMC the existence of such a right.

### **Who is an "exempt person"?**

There are different ways an applicant may qualify as an exempt person. These are:

1. Nationals of EEA states (other than UK nationals) and Swiss nationals;
2. UK nationals with enforceable Community rights by virtue of having resided in another relevant European state as a worker, self employed person, student or self-sufficient person or (in the case of an EEA state) pursuant to the three month right to reside under the Citizenship Directive<sup>1</sup>;
3. Those who are not nationals of an EEA state or Switzerland and who are:
  - a. the spouse/civil partner registered under the law of an EEA state of:
    - i. a non-UK EEA 20<sup>2</sup> national in the UK as a worker, self-employed person , or self sufficient person, or pursuant to the three month right to reside under the Citizenship Directive;
    - ii. a UK national having resided in another relevant European state as a worker, self-employed person, or self sufficient person, or (in the case of an EEA state) pursuant to the three month right to reside under the Citizenship Directive;
    - iii. a EU-8<sup>3</sup> EU-2<sup>4</sup> national in the UK as a self-employed person, or self-sufficient person;
  - b. the descendant aged under 21 years, dependent descendant or dependent relative in the ascending line of an EEA national as defined in (a) (i)-(iii) above, or of their spouse or civil partner or the extended family member of such a person having been given the right to reside in the UK;
  - c. the spouse/civil partner of an EEA national in the UK as a student for more than three months or of a UK national having studied for more than three months in another relevant European state, or the dependent child of such an EEA or UK national or their spouse or civil partner;
  - d. a person previously falling into one of the categories in (a)-(c) above who has retained their Community rights following the death or departure of the EEA national from the UK or following divorce, annulment of marriage or termination of the civil partnership, under the conditions described in Articles 12-13 of the Citizenship Directive.
  - e. the spouse/civil partner, descendant under 21 or dependent descendant of an EU-8 national working legally in the UK (i.e. for an authorised employer or no longer subject to registration) who is legally residing with the EU-8 national in the UK;

f. the spouse/civil partner, descendant under 21 or dependent descendant of an EU-2 national working legally in the UK (i.e. for an authorised employer or no longer subject to authorisation) who is or has been legally residing with the worker in the UK;

i. since before 1 January 2007; or

ii. for at least 18 months (NB this cannot be before 1 July 2008, or the family member will fall into the previous category);

iii. after 1 January 2009

g. the spouse/civil partner, child under 21 or dependent child of a Swiss national in the UK as an employed worker, a self employed person, a student or self sufficient person.

### **Proof of exemption**

1. EEA and Swiss nationals only need to provide a valid passport or ID card, or a registration certificate or permanent residence card issued by the UK Home Office.

2. UK nationals must provide proof of citizenship and proof that they have a community right, namely:

a. In the case of applicants under sections 3(1)(b), 14A or 15A of the Medical Act, the possession of the relevant European qualification required for registration under those sections; otherwise either

b. a registration certificate or permanent residence card issued by another EEA state, or a Swiss residence permit; or

c. other evidence of employment, self-employment, study, self-sufficient residence in another relevant European state, or of other residence for under three months in another EEA state; or

3. non-EEA family members of EEA or Swiss nationals should provide proof of citizenship and either the documents in (a) below or evidence of the matters in both (b) and one of (c) or (d), and (e) where relevant:

a. An EEA family permit, residence card or permanent residency card issued by the UK Home Office; or (except in the case of an extended family member)

b. Proof that they are the family member of an EEA/Swiss national, i.e.

i. proof of the nationality of the relevant EEA/Swiss national;

ii. proof of the relevant family relationship;

iii. where required, proof of dependency on the EEA/Swiss national or their spouse or (where relevant) civil partner in the family member's state of origin or the state from which they have come;

iv. in the case of family members of EU-2 and EU-8 workers, proof that they are residing with the EEA national in the UK;

c. In the case of family members of a non-UK national, proof that the EEA/Swiss national is in the UK as a worker, self-employed person, student or self-sufficient person or, in the case of an EEA national, has been resident in the UK for under three months;

d. In the case of family members of a UK national, proof of the UK national's exercise of Community rights through;

i. a registration certificate or permanent residence certificate issued by another EEA state or a Swiss residence permit; or

- ii. other evidence of employment, self-employment, study, self-sufficient residence in another relevant European state, or of other residence for under three months in another EEA state;
  - iii. other evidence that the UK national, through residing in the UK, is exercising their right to travel to other EEA states or Switzerland to provide services there.
- e. In the case of family members of a non-EEA national claiming to have retained their Community rights following the death or departure of the EEA national from the UK or following divorce, annulment of marriage or termination of the civil partnership, proof of the conditions described in Articles 12-13 of the Citizenship Directive.

### **Documentary evidence required**

Please note this list is not exhaustive and you should review the examples given that are most appropriate in your individual case.

1. Proof of EEA or Swiss nationality; a valid passport, ID card, or UK Home Office issued registration certificate or permanent residency card.
2. Proof of UK nationality; a valid passport or ID card, or other sufficient proof of nationality, e.g. naturalisation document.
3. Proof of employment; letter from employer or certificate of employment; if relevant, evidence of temporary inability to work, or of involuntary unemployment and registration as a job-seeker, or vocational training. In case of EU-2 and EU-8 workers, there must also be evidence that the employment is authorised, i.e. is in accordance with the EU-2 national's work authorisation or the EU-8 national's registration.
4. Proof of self employment; for example a set of self employed accounts or letter from an accountant.
5. Proof of student status; a letter from the educational establishment attesting to attendance or enrolment, or where past attendance is relevant (e.g. UK citizen returning after studying abroad), a certificate or diploma attesting to the completion of a course. In the case of EEA/Swiss nationals in the UK as students for more than three months, proof should also be furnished of medical insurance for the student and their family members together with declaration of sufficient resources;
6. Proof of self-sufficient residence; for periods after three months some evidence of resources (e.g. bank statements, investment certificates) will be needed.
7. Other proof of exercising the right to reside for up to three months in another EEA state; evidence of the purpose of the trip and activities engaged in during the period.
8. Proof of dependency; a certificate of dependency issued by the family member's state of origin or the relevant European state from which the EEA/Swiss national and family member are coming to the UK, or other evidence that EEA/Swiss national provides material support to the family member on the relevant state.

## Partner

9. Directive 2004/38/EC of the European Parliament relates to the right of citizens of the European Union and their family members to move and reside freely within the European Union. The Directive extended the definition of the family to a certain extent.

10. Article 2(2) of the Directive defines "Family member" as meaning the spouse or the partner with whom the EU citizen has contracted a registered partnership.

As stated previously this is an extremely complex area and this guidance gives only general information. If you believe you benefit from an EC right, you are strongly advised to seek professional advice from a lawyer specialising in rights for nationals of European states and those with an enforceable Community right. The GMC cannot give you advice and it is your responsibility to demonstrate to the GMC the existence of such a right.

Please refer to the EU commission web site for more information and documentation (including a list of which countries are in the EEA and the Citizenship Directive) -

<http://europa.eu>

Other useful links are:

SOLVIT <http://ec.europa.eu/solvit/>

Citizens Signpost Service (CSS)

[http://ec.europa.eu/citizensrights/front\\_end/index\\_en.htm](http://ec.europa.eu/citizensrights/front_end/index_en.htm).

---

## Footnotes

<sup>1</sup> Directive 2004/38/EC

<sup>2</sup> The 15 pre-2004 EU Member states (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom), Cyprus, Malta and the three non-EU EEA states (Norway, Iceland and Lichtenstein)

<sup>3</sup> The eight accession states joining the EU in 2004 (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia)

<sup>4</sup> The 2 accession states joining the EU in 2007 (Bulgaria and Romania)