

‘Relevant Persons of Northern Ireland’ and the EU Settlement Scheme

Irish, British and dual Irish/British Citizens from Northern Ireland



(vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

- A person born in Northern Ireland (subject to their parents status) is Irish or British or a dual British/Irish national.
- They do not have to apply or naturalise as Irish or British-they are automatically entitled to both nationalities as they so choose.
- They have the right to hold both
- Unique within the U.K due to GFA

New Decade, New Approach

13. The Government has reviewed the consistency of its family migration arrangements, taking into account the letter and spirit of the Belfast Agreement and recognising that the policy should not create incentives for renunciation of British citizenship by those citizens who may wish to retain it.
14. The Government will change the rules governing how the people of Northern Ireland bring their family members to the UK. This change will mean that eligible family members of the people of Northern Ireland will be able to apply for UK immigration status on broadly the same terms as the family members of Irish citizens in the UK.
15. This immigration status will be available to the family members of all the people of Northern Ireland, no matter whether they hold British or Irish citizenship or both, no matter how they identify.



Statement of changes in Immigration Rules CP232

14/05/20

EU.5 In Annex 1, after sub-paragraph (c) of the definition of ‘EEA citizen’ in the table, insert:

“; or

(d) a **relevant person of Northern Ireland**”.

relevant person of Northern Ireland	a person who: (a) is: (i) a British citizen; or (ii) an Irish citizen; or (iii) a British citizen and an Irish citizen; and (b) was born in Northern Ireland and, at the time of the person’s birth, at least one of their parents was: (i) a British citizen; or (ii) an Irish citizen; or (iii) a British citizen and an Irish citizen; or (iv) otherwise entitled to reside in Northern Ireland without any restriction on their period of residence ”
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Appendix EU amended on 24th August 2020

EEA citizen a person who is:

- (a)(i) a national of: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland; and
- (ii) not also a British citizen; or
- (b) a relevant naturalised British citizen; or
- (c)(i) a national of a country listed in sub-paragraph (a)(i) above; and
- (ii) (where the applicant meets the criteria in paragraph 9 of Schedule 6 to the EEA Regulations as the family member (“F”) to whom that paragraph refers) a British citizen within the meaning of the person (“P”) to whom that paragraph refers; or
- (d) a **relevant person of Northern Ireland**

(e) where the applicant is a family member of a relevant person of Northern Ireland, an EEA citizen (in accordance with sub-paragraph (d) of that entry in this table):

- (i) resident in the UK and Islands for a continuous qualifying period which began before the specified date; or
- (ii) who, having been resident in the UK and Islands as described in sub-paragraph (e) (i) above (where they are a relevant person of Northern Ireland in accordance with sub-paragraph (a)(ii) of that entry in this table):
 - (aa) has been or is being granted indefinite leave to enter or remain under this Appendix (or under its equivalent in the Islands); or
 - (bb) would be granted indefinite leave to enter or remain under this Appendix, if they made a valid application under it; or
- (iii) who, having been resident in the UK and Islands as described in sub-paragraph (e) (i) above, would, but for the fact (where they are a relevant person of Northern Ireland in accordance with sub-paragraph (a)(i) or (a)(iii) of that entry in this table) that they are a British citizen, be granted indefinite leave to enter or remain under this Appendix, if they made a valid application under it

Relevant person of Northern Ireland

A family member of a relevant EEA citizen can also apply where they are the family member of a relevant person of Northern Ireland (as defined in Annex 1 to Appendix EU). A 'relevant person of Northern Ireland' is a person who both:

- is either:
 - a British citizen
 - an Irish citizen
 - a British citizen and an Irish citizen
- was born in Northern Ireland and, at the time of the person's birth, at least one of their parents was either:
 - a British citizen
 - an Irish citizen
 - a British citizen and an Irish citizen
 - otherwise entitled to reside in Northern Ireland without any restriction on their period of residence

Family members of the people of Northern Ireland

In addition to the '[other evidence](#)' section above – which is required where the family member applying for status under the scheme is either a non-EEA citizen without a documented right of permanent residence, or an EEA citizen without a documented right of permanent residence who relies, in this case, on being (or for the relevant period on having been) a family member of a relevant EEA citizen – where such an applicant is a family member of a relevant EEA citizen who is a relevant person of Northern Ireland, you will need to see, in respect of the relevant EEA citizen, the 'required evidence of being a relevant person of Northern Ireland' (as defined in Annex 1 to Appendix EU).

This means both:

- the person's birth certificate showing that they were born in Northern Ireland, or their passport where this shows that they were born in Northern Ireland
- evidence which satisfies you that, at the time of the person's birth, at least one of their parents was a British citizen, an Irish citizen, a British citizen and an Irish citizen, or otherwise entitled to reside in Northern Ireland without any restriction on their period of residence

You must see evidence of A and B below, and evidence of at least one of C, D or E. Non-exhaustive examples of the evidence which may be provided in respect of B, C, D and E are set out below.

If you are unsure whether the evidence provided is sufficient, you must discuss this with your senior caseworker who may refer to the European Migration & Citizens' Rights Unit for further advice.

A. Evidence that the person was born in Northern Ireland

Either:

- the person's birth certificate showing that they were born in Northern Ireland
- the person's British or Irish passport, where this shows that they were born in Northern Ireland

B. Evidence of the person's relationship to their parent

- the person's birth certificate which names their parent and which both:
 - is linked to the person through a valid photographic identity document
 - was issued within 12 months of the person's birth (if it was not, then the photographic identity document must be based on additional evidence to the birth certificate)

C. Evidence that one of the person's parents was a British citizen at the time of the person's birth

The most reliable evidence that a person's parent was a British citizen at the time of the person's birth will be the parent's British passport which was valid at the time.

If this is not available, then you will need to see other evidence to satisfy you that one of the person's parents was a British citizen at the time of the person's birth. The parent may have become a British citizen at birth or they may have applied for British citizenship.

Whether or not the person's parent was a British citizen at birth depends on the rules that were in force at the time. The types of evidence you need to see to establish that a person's parent was a British citizen at birth are set out on pages 13 and 14 of *British citizenship: automatic acquisition guidance* and you must consider any evidence submitted by the applicant in line with that guidance.

If the person's parent applied to become a British citizen, you can rely on Home Office records of naturalisation or registration as long as you are satisfied that the record relates to the parent. If you cannot locate a Home Office record, you will need to ask the applicant to provide the parent's naturalisation certificate or registration certificate and a valid photographic identity document that links the parent to the certificate so you can be sure it belongs to them.

In all circumstances, if you are satisfied that the parent had British citizenship before the person's birth, you must check that there is no record of British citizenship having been renounced or otherwise lost before that birth.

British Citizenship: automatic acquisition guidance

Evidence of the parent's status, including:

- passports describing the holder as a British citizen or as a citizen of the UK and Colonies, issued before 1 January 1983, with an endorsement saying the holder has a right of abode in the UK
- birth certificate showing their parents' details and the country in which the individual was born such as the UK, Falkland Islands or qualifying territory
- a passport describing the holder as a British overseas territories citizen (BOTC) and information showing that the holder has that citizenship by connection with a qualifying territory
- a certificate of naturalisation issued in the UK describing the holder as either a British citizen or a citizen of the UK and Colonies
- a certificate of naturalisation issued in a qualifying territory describing the holder as either a British citizen, a British dependent territories citizen or a citizen of the UK and Colonies
- the relevant documents related to their parents', grandparents', spouse's birth, adoption, marriage, death, registration or naturalisation

Evidence of a parent's settled status, including:

- immigration officer's stamp in a passport showing the holder has been given leave to enter for an indefinite period
- a Home Office stamp in a passport showing the holder has indefinite leave to remain in the UK or that there is no time limit on their stay here
- a Home Office letter confirming that the named individual has been granted indefinite leave to remain in the UK
- a biometric residence permit confirming that the individual has indefinite leave to remain in the UK

if the parent has ILR that has been granted through the EU Settlement Scheme (EUSS) the only evidence required will be the date of the grant - you must check this against Home Office records.

D. Evidence that one of the person's parents was an Irish citizen at the time of the person's birth

The most reliable evidence that a person's parent was an Irish citizen at the time of the person's birth will be the parent's Irish passport which was valid at the time.

If this is not available, then you will need to see other evidence to satisfy you that one of the person's parents was an Irish citizen at the time of the person's birth. The parent may have become an Irish citizen at birth or they may have applied for Irish citizenship.

Whether or not the person's parent was an Irish citizen at birth depends on the rules that were in force at the time. You can find information about this on the website of the Irish Government's Department of Foreign Affairs and Trade at www.dfa.ie/citizenship.

If the person's parent applied to become an Irish citizen, you will need to ask the applicant to provide the parent's certificate of Irish citizenship and a valid photographic identity document that links the parent to the certificate so you can be sure it belongs to them.

In all circumstances, if there is information suggesting that the evidence provided may not be authentic or that Irish citizenship may have been renounced or otherwise lost before the child's birth, you must make reasonable, relevant enquiries to establish whether, on the balance of probabilities, the parent was an Irish citizen at the time of the person's birth. However, such enquiries do not need to be made if you are satisfied that the parent (or the person's other parent) was a British citizen, or otherwise entitled to reside in Northern Ireland without any restriction on their period of residence, at the time of the person's birth.

E. Evidence that one of the person's parents was otherwise entitled to reside in Northern Ireland without any restriction on their period of residence at the time of the person's birth

A person's parent will have been otherwise entitled to reside in the UK without any restriction on their period of residence if they:

- had the right of abode in the UK
- had indefinite leave to enter or remain in the UK
- had a right of permanent residence in the UK under the EU Free Movement Directive – this applies if the person was born on or after 29 April 2006
- were a non-Irish EEA citizen and a self-employed person who had ceased activity or a family member of such a person, a family member of an EEA citizen who had died, or a person who had rights under Regulation EU 1251-70 (for example as a retired non-Irish EEA worker) – this applies if the person was born between 2 October 2000 and 28 April 2006
- were a citizen of a country that was in the EU or the EEA (other than Ireland) and they were exercising free movement rights in the UK – this applies if the person was born between 1 January 1973 and 1 October 2000

You can rely on Home Office records showing that the parent was entitled to reside in the UK (and therefore Northern Ireland) without any restriction on their period of residence at the time of the person's birth as long as you are satisfied that the record relates to the parent.

If you cannot locate a Home Office record, you will need to ask the applicant to provide one of the following together with a valid photographic identity document that links the parent to the document so you can be sure it belongs to them:

- On the 24th August 2020, Appendix EU of the immigration rules changed to allow family members of a “**relevant person of Northern Ireland**” to apply to the EU Settlement Scheme.
- A relevant person of Northern Ireland is ; “a **British** citizen, an **Irish** citizen or a **dual** British and Irish citizen who was born in Northern Ireland (and at the time of their birth had at least one parent who was a British citizen; or an Irish citizen; or a dual British and Irish citizen; or who was otherwise entitled to reside in Northern Ireland without any restriction on their period of residence).
- The NI person does not need to apply to the EUSS for their family member to use it
- It is not clear if the relevant person of NI will be permitted to apply to the scheme in their own right but this should not impact majority of family members as above-some issues with this
- This includes relevant persons of Northern Ireland who are currently living in England, Scotland or Wales
- Can include relevant persons of Northern Ireland and their family members who live abroad but intend to relocate to UK-but complexities!
- EU family members can apply to the EU Settlement Scheme in their own right

- Applications for family members of relevant persons of Northern Ireland will only be accepted from the **24th August 2020** and the EUSS ends on the **30th June 2021**-complexities and 31st December 2020 date to bear in mind
- Applications are made through the standard EUSS process, which is free and online, straight forward for most applicants
- Family members of 'relevant persons of Northern Ireland' will be defined in the same way as other EU nationals and can include children under 21 years old and dependant parents and grandparents.
- Extra evidential requirements as they must show the person was born in Northern Ireland + their parents status at the time of their birth.
- Potential advantages for people of NI to use the EUSS rather than the UK immigration system; including for British people from NI and their family which is a unique opportunity.
- There are free advice services who can assist with EUSS applications, most can provide remote advice and assistance with issues like evidence, deadlines etc.

Issues and Questions

- Since the scheme came into force on 24th August we have a lot more clarity on how it is being applied and processed-but it is very new and there are still some areas which need clarity
- People of NI applying in their own right-we are hearing reports that people of NI cannot apply to the scheme themselves or some are not being permitted to apply while others are which may impact people who wish to come to the UK in advance of their non-EU family and bring them to the UK post December 2020
- Durable partners generally require a document which NI people and their family members can't obtain. It is not clear if alternative evidence will be accepted for durable partners of relevant persons of NI
- Many people wish to transfer to the EUSS from an existing visa; the potential impact if refused and administrative requirements have not been clarified.
- Evidence requirements for the parents of the relevant person of NI are being applied strictly-requesting both passports and birth certificates
- Some family members appear to have been refused because the relevant person of NI is not residing in the UK
- **Seek legal advice if your application involves any of these issues-remember there are free services available!**

Law Centre NI- 02890244401

Migrant Centre NI- 07730747860

Advice NI- 08001386545

Step & Stronger Together-02887750211

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