

Note: 1st March 2021

Free from immigration time restrictions: An Update on EU nationals and applications for naturalisation as a British Citizenship from 1 January 2021 to 30 June 2021.

This Update looks at how EU nationals can fulfil the requirement of free from immigration time restrictions when applying for naturalisation as a British Citizen from 1 January 2021 to 30 June 2021

All applicants for naturalisation must be free from immigration time restrictions on the date of application. There is no discretion to waive the requirement. If you are an EU national applying for naturalisation under Section 6 (1) of the British Nationality Act 1981, on the basis of 5 years lawful residence in the UK, you must show that you are free from immigration time restrictions on the date of application and have been so for a 12 month period before making the application. If you are making an application under Section 6 (2) of the British Nationality Act 1981, on the basis of marriage to a British Citizen, there is no need for you to show that you are free from immigration time restrictions for a 12 month period before making the application.

How can EU nationals show that they are free from immigration time restrictions from 1 January 2021 to 30 June 2021?

This will depend on your circumstances:

In general, if you already hold settled status or indefinite leave to remain under the EU Settlement Scheme (EUSS indefinite leave to remain), you must use the EUSS indefinite leave to remain to show that, at the date of application, you are free from immigration time restrictions.

Accordingly, if you are applying for naturalisation under Section 6 (1) of the British Nationality Act 1981, you can use your EUSS indefinite leave to remain to show that you have been free from immigration time restrictions for 12 months before applying.

However, if you have not held the EUSS indefinite leave to remain for 12 months before applying, you can show that you have been free from immigration time restrictions for 12 months by producing evidence that you acquired the right of permanent residence under EU law, and have held this right for at least 12 months before applying for naturalisation.

In order to use your permanent residence right under EU law, you do not need to show that you were previously issued with a permanent residence document if you have been granted EUSS indefinite leave to remain. You must however produce documentary evidence to show that you were lawfully resident in the UK for a continuous period of 5 years before 31.12.2020, and acquired the right of permanent residence at least 12 months before you apply for naturalisation.

Under EU law and the Immigration EEA Regulations, an EU citizen is considered to be lawfully resident if they were exercising free movement rights in the UK. Examples of free movement rights include living in the UK as a worker, a student, a self-employed person or a self-sufficient person.

If you do not hold any EUSS indefinite leave to remain, you can potentially use your permanent residence right under EU law to show that you have been free from immigration time restrictions for the requisite period before applying for naturalisation. However, you will need to have a permanent residence document in order to do so. This part of the EEA Regulations was revoked after 31.12.2020. You can no longer apply for a permanent residence document if you do not already have one.

Comment:

If you are an EU citizen planning to rely on your permanent residence right under EU law to show that you have been free from immigration time restrictions for the requisite period before applying for naturalisation, whether with or without a permanent residence document, you must do so before 30 June 2021.

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If you would like advice or assistance on any of the issues raised in this note/article, please contact Agnes Lai by email at

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