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**CIVIL SERVICE NATIONALITY RULES**

**Statutory Basis**

There is a statutory prohibition in the Aliens Restriction (Amendment) Act 1919 on the employment of aliens (that is to say, foreign nationals other than Commonwealth and Irish citizens and British Protected Persons) in the Civil Service. There are, however, three legal exceptions –

- in 1991, the European Communities (Employment in the Civil Service) Order (SI 1991/1221) enabled nationals of other European Community (EC) Member States and certain non-EC family members to be employed in many Civil Service posts;
- the European Economic Area (EEA) Act 1993 enabled nationals of Member States of the European Free Trade Area (EFTA), *except Switzerland*, to be employed in the Civil Service, together with certain non-EFTA family members, on the same basis as the nationals of EC Member States under SI 1991/1221. Since 1 June 2002, this right now applies to Swiss nationals under the EU-Swiss Agreement between the EC and its Member States and the Swiss Confederation on the Free Movement of Persons.
- there is also a provision that, in exceptional circumstances, foreign nationals, other than EEA nationals and non-EEA family members mentioned above, may be employed by means of an Aliens' Certificate under the Aliens' Employment Act 1955.

In addition, under the Civil Service Order in Council dated 15 March 1995 and the Diplomatic Service Order in Council dated 5 February 1991, the Minister for the Civil Service and the Secretary of State for Foreign Affairs may make nationality rules governing recruitment to the Home Civil Service and the Diplomatic Service

respectively. This document summarises the statutory position and sets out rules in both cases. The Race Relations Act 1976 reserves the validity of nationality rules governing eligibility for employment in the Service of the Crown and certain prescribed public bodies.

## **Definitions**

UK national is as defined in the UK Declaration on nationality for EC purposes made with effect from 1 January 1983. This comprises: British citizens, British subjects under Part IV of the British Nationality Act 1981 having the right of abode in the UK, and British Overseas Territories citizens. The Declaration also notes the reference, in connection with the Channel Islands and the Isle of Man, that “any citizen of the UK and Colonies” is to be understood as referring to “any British citizen”.

Commonwealth citizen means any person who has the status of a Commonwealth citizen under the British Nationality Act 1981.

EU Member States (besides the UK) comprises, from 1 May 2004, Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, the Republic of Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden. From 1 May 2004, the Accession Treaty, signed in Athens on 16 April 2003, granted to Cyprus and Malta the same rights to work in another Member State (including the UK) as are enjoyed by the nationals of the other States of the European Economic Area. The European Union (Accessions) Act 2003 enabled the Accession Treaty to be implemented in UK law and approved the provisions of that Treaty insofar as they related to the powers of the European Parliament. It also provided the power, from 1 May 2004, to grant to the nationals of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia the same rights to work in the UK as are enjoyed by nationals of the other States of the European Economic Area.

EFTA Member States in this context comprise the following European Free Trade Area Member States: Iceland and Norway from 1 January 1994 and Liechtenstein from 1 May 1995.

EEA national means a national of an EU or EFTA Member State as defined above. Although Switzerland is not part of the EEA, and Swiss nationals are not EEA nationals, the EU-Swiss Agreement (1 June 2002) confers upon Swiss nationals many of the same rights as are enjoyed by EEA nationals and their family members, including employment in the Civil Service.

Family member means a specified family member of an EEA national who has moved to the UK from another EEA Member State for an approved purpose. The categories of family member are:

- the EEA national’s spouse;
- a descendant of the EEA national or the spouse who is under 21 years of age or is their dependant;

- a dependent relative in the ascending line of the EEA national or the spouse.

## Notes

- a) Applicants with dual nationality will be eligible for the Civil Service provided that one of the nationalities meets the requirements.
- b) Applicants from some countries may be subject to immigration control.

## The Rules

1. Posts in the Home Civil Service where special allegiance to the state is required are reserved for UK nationals. Many posts, however, are not in the reserved category and do not therefore require such allegiance. They are additionally open to Commonwealth citizens, British Overseas Territories citizens, British Nationals (Overseas) citizens, British Overseas citizens and British Protected Persons, EEA nationals of other Member States and to certain non-EEA family members. Where a vacancy is in the non-reserved category allowing applications from these groups, the recruitment publicity accompanying the application form will say this.
2. **Very exceptionally**, someone who falls outside the above groups may be considered for an appointment in the non-reserved category for up to five years under the Aliens' Certificate arrangements where it appears to the Minister for the Civil Service and to the Minister of the employing department or agency that no suitably qualified person meeting the nationality criteria is available or that the individual has exceptional qualifications or experience for the appointment.
3. For posts in HM Diplomatic Service and most Home Civil Service posts under the Foreign and Commonwealth Office, individuals are only eligible if –
  - a) they are a British citizen;
  - b) they have resided in the UK for at least two of the previous ten years, at least one year of which must have been a consecutive twelve month period. Furthermore, to enable the appropriate security checks to be carried out, they must have resided for at least three consecutive years in one country.

Applicants should be aware that where there is a lack of sufficient background information, this may preclude an applicant from being granted a security clearance.

4. For certain appointments under the Minister for the Civil Service, the Secretary of State for Defence or the Secretary of State for Foreign and Commonwealth Affairs, other than appointments in the Diplomatic Service, the relevant criteria above may apply or particular requirements may be prescribed.