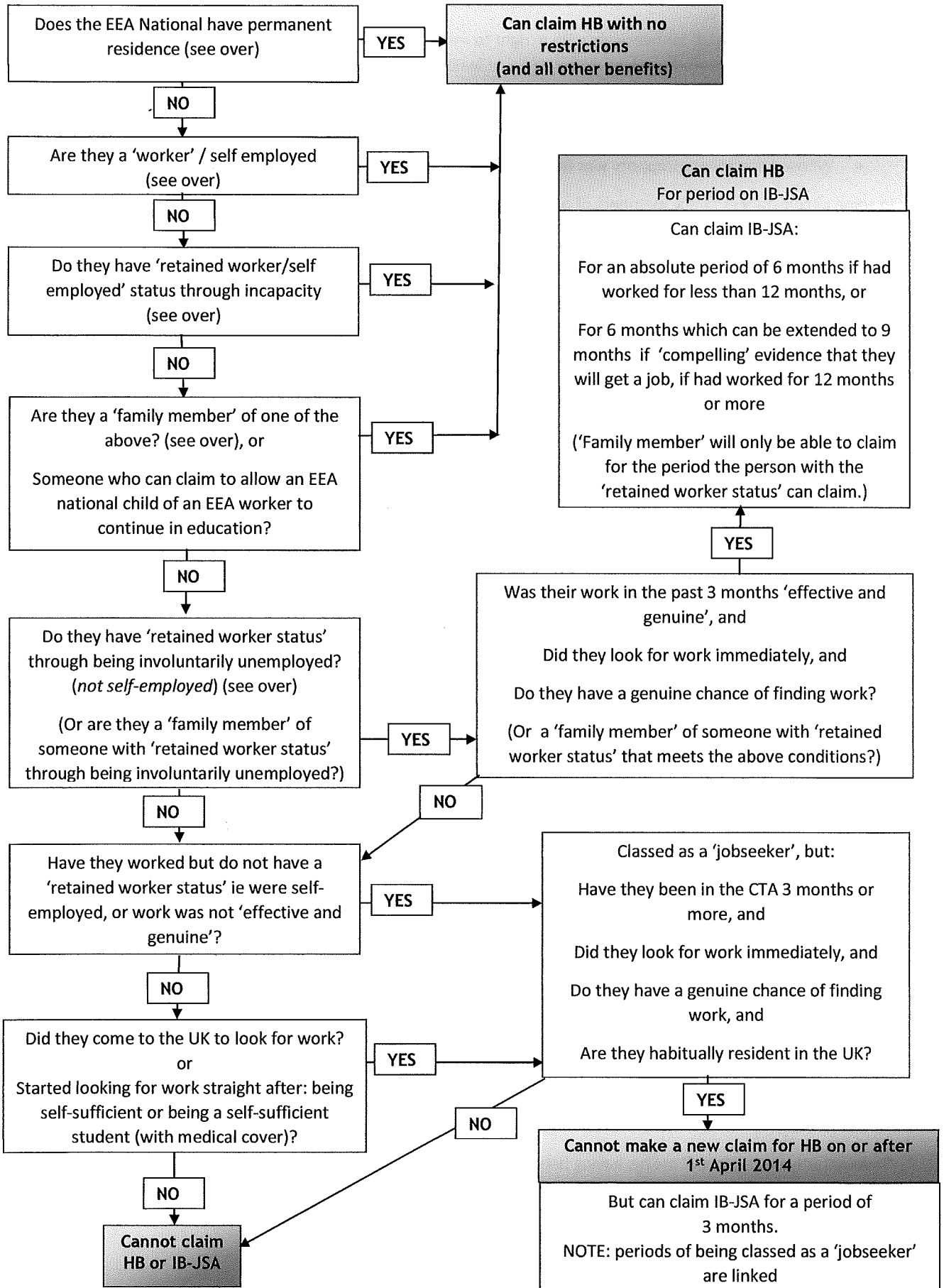


EEA Nationals – Rules for claims since 1st Jan 2014



Definitions

A 'Permanent right of residence' is given to an EEA national who:

- Has lived in the UK for five years with a 'right to reside' (not a derivative right); or
- Who has retired after working in the UK for at least a year before retirement and has lived in the UK for three years and has a pension; or
- Who is permanently incapacitated and lived in the UK for two years before ceasing employment / self-employment; or
- Whose permanent incapacity was the result of an industrial accident or occupational disease.

In some circumstances family members of people in these situations would also qualify for permanent residence.

A person counts as a "family member" if he / she is:

- The EEA national's spouse or civil partner, or
- Their direct *descendant* (including descendants of their spouse / civil partner) - ie son / daughter / step-son / step-daughter / grandson / granddaughter the descendant is:
 - under 21, or
 - dependent* on the EEA national or their their spouse / civil partner, or
- *Except for Croatsians*, their dependent* direct relative in the *ascending* line (including ascending relative of their spouse / civil partner) - ie parent / grandparent.

*Dependent in this context means receiving 'material support' from someone to help with the basic necessities of life - though it doesn't have to be financial and doesn't have to cover all their needs. They have to actually receive the support. **CIS 2100/2007**.

Some "extended family members" can be treated as a family member – seek advice.

Child in education. A person can have a "derivative" right to reside if they are the primary carer and parent /step parent of an EEA child of an EEA national; and that EEA national had been working in the UK at some point while their child was in the UK; and that child is under 18 and still in education (not including nursery).

An **EEA national 'worker'** is someone from an EEA state (including Switzerland) who is currently working in the UK in work that is 'genuine and effective' (see below) – either through employment or self-employment.

An **EEA national with 'retained worker status' through incapacity** is an EEA national who is currently temporarily incapable of work but who has been in work (either through employment or self-employment) in the UK, in work that was 'genuine and effective' (see below).

An **EEA national with 'retained worker status' through being involuntarily unemployed** (see below) is an EEA national who is currently looking for work and who has worked in the UK in work that was 'genuine and effective' (see below) – through employment - not through self-employment.

An **EEA national 'jobseeker'** for the purpose of this sheet is an EEA national who has come to the UK to look for work who has never worked in the UK before, or who has worked but lost their 'retained worker status' (generally people whose self-employment has ended and those whose work was not 'genuine and effective').

'Genuine and effective' work – guidance from the DWP is that where the claimant has earned on average at least £155 gross a week (2015-16) – was £153 gross a week (2014-15), then they will automatically be considered to be in 'genuine and effective' work. Where the worker has not earned this level of wages the DWP / HB Office will have to examine the situation as a whole to see if the work undertaken can be considered 'genuine and effective'.

'Involuntarily unemployed' means having been made redundant, laid off, contract ended etc. This can include people who leave their job voluntarily as the definition is more about whether the person is still actively in the labour market, than the conditions under which their job finished.

CTA – Common Travel Area: the UK, Channel Islands or Isle of Man.