

Glossary of terms

Habitual Residence

The term 'habitual residence' is intended to convey a degree of permanence in the person's residence in the UK, Channel Islands, Isle of Man or the Republic of Ireland; it implies an association between the individual and the country. The Welsh Government's *Code of Guidance for Local Authorities: Allocation of Accommodation and Homelessness* 2012 suggests that 'when deciding whether an applicant is habitually resident, local authorities should take account of the applicant's period of residence and its continuity; the applicant's employment prospects; the applicant's reason for coming to the UK; the applicant's future intentions'.

Initial Right to Reside

Regulation 13 of the Immigration (European Economic Area) Regulations 2006 ("the 2006 Regulations") provides for an initial right of residence for all EEA nationals and their family members to reside in the UK for a period of 3 months, provided they do not become an unreasonable burden on the social security system. This initial right to reside was introduced in 2004 in Council Directive 2004/38.

Derivative Right to Reside

A derivative right to reside was added to the 2006 Regulations in 2012 to reflect the European Court of Justices' decision in *Zambrano*. In that case, the court ruled that a third country national (Mr Zambrano), who had been living and working in Belgium without a work permit, had a right of residence and right to work so that his Belgian national children were not forced to leave the EU and thereby prevented from exercising their rights as EU citizens.

Regulation 15A of the 2006 Regulations reflects this decision and provides that a person who is a third country national has a derivative right to reside in the UK for as long as they are the primary carer of a person under the age of 18, who is residing in the UK as a self sufficient person, and who would be unable to remain in the UK (or another EEA state) if he/she were required to leave.