



Project 17
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Child Benefit Exception

If a non-EEA national is part of a family unit which contains an EEA national (which includes a UK national), they should be able to claim child benefit under the Child Benefit exemption. This includes those who have been granted leave on the basis of their family life with a person who is a British Citizen under the Appendix FM to the Immigration Rules where this is subject to a no recourse to public funds condition.

- Regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (SI 2000/636), as amended by SI 2013/1474 provides for certain people not to be excluded from entitlement to certain benefits under s.115
- *Child Benefit Technical Manual CBTM10140 - Residence and immigration: immigration - exceptions to the general exclusion*, states:
 - “People who are subject to immigration control are not excluded from entitlement to child benefit if they are a family member (spouse or partner) of a person who is a UK, EEA or Swiss national. If the child being claimed for is an EEA national, this would also allow for this exception to apply.”
- For further details of the exemptions see Chapter 14 of Macdonald’s *Immigration and Practice* (9th edn January 2015) on ‘Welfare Provision for Migrants and Asylum Seekers’ at paras 14.10-14.19 or [this](#) article on Free Movement
- Those wishing to claim Child Benefit under this exemption should include a cover letter with their application for Child Benefit. A template for this cover letter can be found in the letters and templates section of Project 17’s website.