

UKVI

(Address line 1?)  
(Address line 2?)  
(Address line 3?)  
(Address line 4?)  
Ireland

Tel: (?)  
Email: (?)

(Date ?)

Dear Sir/Madam,

**RE: EEA Family Permit Application Number GWFxxxxxxxx – (non-EU name?)**

I am the British spouse of (non-EU name?) as evidenced by our marriage certificate, and I am writing in support of her application for an EEA Family Permit. Since (date?) we have been residing together in the Republic of Ireland where I work, and now wish to return to the UK under Regulation 9 (Surinder Singh ruling).

Before I demonstrate why my wife qualifies for the right to return to the UK I would like to refer to the principle of proportionality as laid down in Article 5 of the Treaty on European Union and established in Community law (Case 116/82 Commission v Germany).

“The principle of proportionality requires the measures imposed by the community institutions to be appropriate to achieve the intended objective and not exceed the limits of that is necessary”.

Therefore the evidence submitted with this application should be sufficiently proportionate to prove that my wife and I meet the criteria set out under Article 9 with regards to proving employment, residence and the transfer of the centre of our lives.

My wife qualifies under Regulation 9 of the Immigration (EEA) Regulations 2006 because during our residence in the Republic of Ireland I have worked self-employed for 4 months (Regulation 4 (1) (a) and Regulation 9 (2) (a)). This is more than the minimum required (Case C-444/93 Megner and Scheffel and Case C-413/01 Ninni-Orasche) and therefore my employment is genuine and effective. As evidence, please find enclosed:

- Business name registration (copy only as original must be displayed at my premises)
- Tax registration
- Accountant's letter
- Bank Statements showing sales revenue paid in
- Invoices and receipts
- Accounts
- Business plan
- Two customer testimonies

In addition to the above, please find evidence enclosed which proves we have been residing together since our arrival in the Republic of Ireland:

- Tenancy contract
- Letter from neighbour supporting our proof of residence and our co-habitation throughout.
- Bank Statements in joint names showing our residential address
- PPS Letter - Non EU Spouse - showing our residential address
- PPS Letter - EU Spouse - showing our residential address
- Letter from INIS acknowledging my wife's application for residency - showing our residential address
- Tax registration - showing our residential address
- Electricity bill in joint names showing our residential address

My wife also qualifies because we have transferred the centre of our lives to (Regulation 9 (2) (c)), and "strengthened a family life" (CJEU Case C-456/12) in the Republic of Ireland. In order to show that we have transferred the centre of our lives to, and strengthened a family life in our host member state please find the enclosed evidence:

- Certificate of full attendance proving our daughter attended the local school
- School report card
- School homework diary signed daily by her teacher and by me
- Receipts for her school uniform
- My wife's GNIB card
- Copy of my wife's Stamp 4
- Letter from neighbour (xxxxxxxxxxx) confirming my participation in school fund-raising activities
- Medical receipt evidencing registration with GP

In order to prove who we are, our relationship and my wife's eligibility to reside in the Republic of Ireland please find enclosed:

- Passport - Non EU (country? number?)
- Passport copy - EU Spouse (United Kingdom, number?)
- Our marriage certificate (language?)
- A certified translation of our marriage certificate (English)
- GNIB card
- Copy of Stamp 4

As you can see from the evidence we have provided my wife is qualified (under Regulation 9 of the Immigration (EEA) Regulations 2006) to return with me to the United Kingdom under the judgement of the CJEU in case C-370/90 Singh.

However, I would also like to bring to your attention more recent EU case law, namely Case C-456/12 O v Netherlands, where the judgement clearly states that:

"...where a Union citizen has created or strengthened a family life with a third country national during genuine residence, pursuant to and in conformity with the conditions set out in Article 7(1) and (2)...of Directive 2004/38/EC...in a Member State other than that of which he is a national, the provisions of that directive apply by analogy where that Union citizen

returns, with the family member in question, to his Member State of origin. Therefore, the conditions for granting a derived right of residence to a third-country national who is a family member of that Union citizen, in the latter's Member State of origin, should not, in principle, be more strict than those provided for by that directive for the grant of a derived right of residence to a third-country national who is a family member of a Union citizen who has exercised his right of freedom of movement by becoming established in a Member State other than the Member State of which he is a national."

Section 3 of the European Communities Act 1972 requires the UK authorities to give effect to judgments of the EU Court of Justice. National authorities are under a duty to apply judgments of the EU Court of Justice as has been confirmed by the Court in *Fratelli Costanzo* (Case C-103/88) and *Ciola* (Case C-224/97). The judgment in *O & B* (Case C-456/12) is therefore binding upon the UK authorities.

Under this new case law, my wife qualifies for a right of return to the UK with me because we have had residence in the Republic of Ireland for over 3 months in accordance with Article 7 of Directive 2004/38 and during that residence my wife and I have lived together, thereby "strengthening a family life".

I understand that my wife's application for an EEA Family Permit is required by the Home Office to meet the conditions set out in The Immigration (European Economic Area) Regulations 2006, but please bear in mind that there cannot be any additional conditions for an EU citizen's return to his country with his family members other than those provided for by the directive and this is the only criteria (now legally the ONLY criteria) that must be applied when considering my wife's application.

Should you require any further information regarding my wife's application please do not hesitate to contact either myself or my wife.

Yours sincerely

(Brit name?)