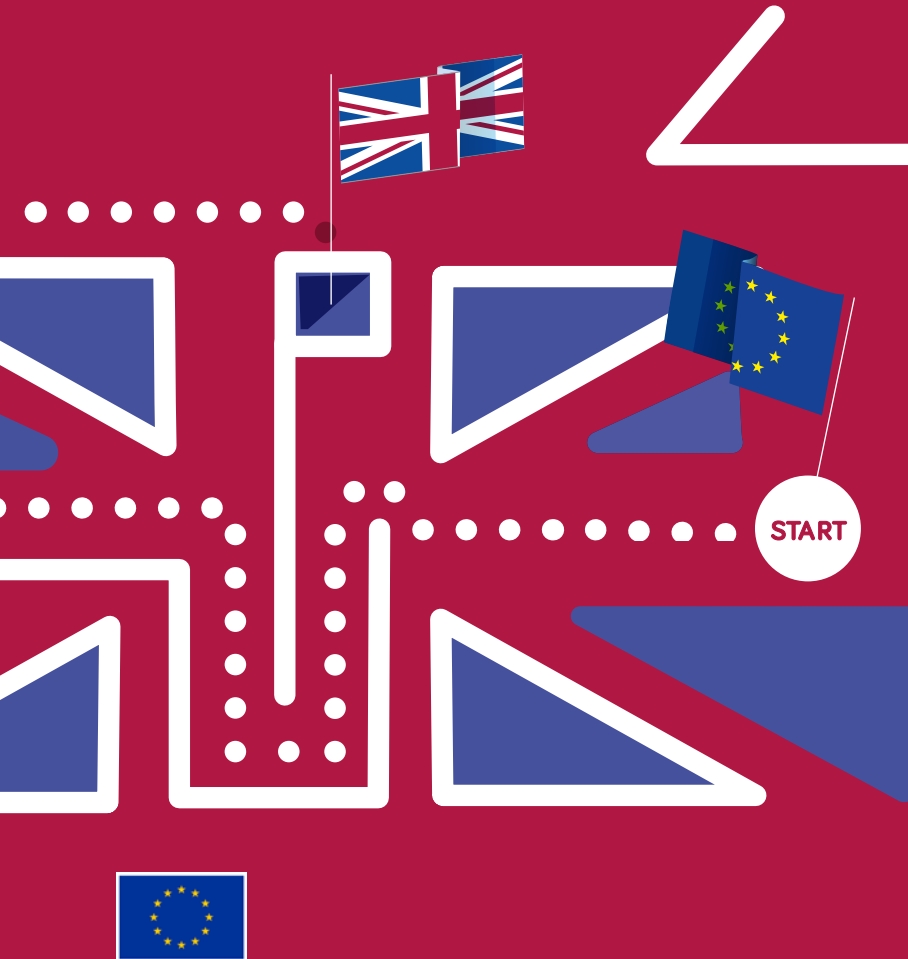


BREXIT

What you need to know
as an EU citizen living
in the UK



1 I am an EU citizen in the UK. How will Brexit affect me?

As of 1 February 2020 the UK is no longer part of the EU. The EU and the UK have negotiated the terms of the UK's exit which is commonly referred to as the 'Withdrawal Agreement' or the 'Brexit deal'. According to this, EU law – including EU free movement¹ – will continue to apply to and in the UK until the end of an agreed **transition period** (which will end on 31 December 2020²).

Once EU law ceases to apply to the UK at the end of the transition period, freedom of movement between the EU and the UK will end (however, see point 2 for situations covered by the Withdrawal Agreement). The UK has stated clearly that they will no longer apply free movement of persons. This will affect EU citizens, their non-EU/EEA/Swiss family members (known as third country nationals), living in the UK as well as British citizens living across the EU.

2 What will happen now the Withdrawal Agreement has entered into force?

Thanks to the EU-UK Withdrawal Agreement, the residence status of EU citizens who arrived in the UK **before the end** of the transition period is protected and such citizens can apply for a new residence status under UK immigration law. To achieve this, the UK Government set up the **EU Settlement Scheme (the Scheme)** which is based on the same EU-UK Withdrawal Agreement.

¹ Free movement of workers is a fundamental principle of EU law. According to this EU citizens can look for a job, work without a permit, reside and stay after the end of their employment in another EU country. They also enjoy equal treatment with nationals of their host country in terms of access to employment, working conditions and all other social and tax advantages.

² Under the Withdrawal Agreement, the UK can request to extend the transition period for one or two years if a request is made before 1 July 2020.

The Scheme is a free UK Home Office application process that nearly all EU citizens residing in the UK and their family members, must complete to be able to continue to stay lawfully in the UK. If you successfully apply under the Scheme, you will be granted **“Settled”** or **“Pre-Settled Status”** depending on how long you have lived in the UK before your application. Failure to apply under this Scheme before the application deadline of **30 June 2021**, means that your future residence in the UK may be unlawful.

Therefore, all EU citizens and their family members who arrive before the end of the transition period and intend to stay in the UK **after 31 December 2020, must apply for this new UK immigration status.**

3 What is the difference between **“Settled”** and **“Pre-Settled Status”**?

The **requirements** of the Scheme are mainly based on UK residence: the Home Office will check how long you have been in the UK and not what you have been doing here. Therefore, status under the Scheme is **not** dependent on your employment, whether or not you receive benefits or hold private health insurance³.

- ▶ This means that EU citizens and their family members who have been continually resident in the UK for at least 5 years should get **“Settled Status”**. The 5-year residence in the UK does not need to have been in the most recent 5 years, as people who have previously lived in the UK for 5 years can apply for settled status even if they do not live in the UK anymore⁽⁴⁾.

³ Referred to as Comprehensive Sickness Health Insurance.

⁴ The Withdrawal Agreement allows for 5-year absences for permanent residents.

Applications for your
"Settled Status" must
be made by
30 June 2021



What you need to know as an EU citizen living in the UK

- ▶ Those who have lived in the UK for less than 5 years will have to apply for temporary **“Pre-Settled Status”**. This will allow them to stay in the UK and apply for “Settled Status” once they achieve the 5 years of continuous residence.

Those applying for “Settled” or “Pre-Settled Status” must also prove their nationality and identity and subject themselves to a criminality check.

Even if you already have a UK issued EU Permanent Residence Document or EU Permanent Residence Card (commonly known as “PR” document / card) **you must apply** for “Settled Status”. Irish citizens or persons who already hold valid “Indefinite Leave to Remain” (ILR)⁵ **are not required** to apply, but can do so if they wish. Dual British/EU27 citizens do not need to apply as they are able to live in the UK after Brexit based on their British nationality.

Deadlines: Your application must be made by **30 June 2021**. If an application is refused before 30 June 2021, you have the option to re-apply any number of times to remedy the issue or appeal the decision to an independent immigration judge. If your application is refused after 30 June 2021, you cannot re-apply and can only appeal the decision. If the application is granted, “close” family members who are not in the UK by this date will be able to join the EU citizen in the UK anytime in the future. “Close” family members are: spouse, civil partner, individuals in the ascending and descending lines, durable partners and future children born or adopted.

⁵ Indefinite leave to remain is invalidated if the holder spends more than 2 continuous years outside of the UK.


4 How to apply for “Settled” or “Pre-Settled Status”

It is free to apply. You have to complete an online application form using a computer, tablet or smartphone.

The Home Office application checks three things: (1) your identity, (2) your residence in the UK and (3) any criminal record you may have.

(1) Identity

The application asks you for your basic information (name, nationality, contact details, national insurance number) and you have to confirm your identity and nationality using your passport (for applicants of all nationalities) or national ID card (if you are an EEA / Swiss applicant). To do this you have the following options:

- ▶ If you have a valid passport or national ID card with a biometric chip (look for this  sign on your national ID card), newer Android and iPhone devices will be able to scan this using the **Home Office EU Exit: ID Document Check app**.
- ▶ If you have a passport or a national ID card with a biometric chip, but you do not have a newer Android or iPhone device, you can go to one of the locations listed by the Home Office to scan your document.
- ▶ If your passport or national ID card does not have a biometric chip, you will have to post your document to the Home Office for verification. The document will be returned to you by the Home Office as soon as it has been scanned.

As part of the application you have to upload a digital photo of yourself.

(2) Residence in the UK

You have to prove your residence in the UK by providing your National Insurance Number (‘NiNo’) if you have

one or, by using documentary evidence. If you give your NiNO when you apply, the application process will automatically check your HMRC and Department of Work and Pensions (DWP) records over the past 7 years to see if there are records of your presence in the UK. Sometimes these checks do not show that you have been in the UK even when they should and if you are relying on UK residence from more than 7 years ago, the automatic checks will not assist you. In this situation you will be asked to provide documents to show that you are, or have been living in the UK. Depending on whether you are applying for "Settled" or "Pre-Settled Status", determines how much UK residence you need to show.

If you are applying for "Settled Status" you need to show you have been living in the UK **for 5 continuous years**. If there are gaps in your 5-years automatic NiNO residence check or, if you do not have a NiNO, you may need to provide additional documents (such as utility bills), to fill in the gaps. You can scan and upload these documents during your online application.

If you are applying for "Pre-Settled Status" because you have not lived in the UK for 5 years, then your automatic NiNO check or documentary evidence must show that you have been living in the UK **at some point in the last 6 months**. If you are asked to provide documents these can be uploaded during your online application.

If there are still gaps in your UK residence, you should be contacted by email or telephone with a request that you provide more documentary evidence.

(3) Criminality

You will be asked about your criminal record. If you have only been convicted of a minor crime you will still be eligible for "Settled" or "Pre-Settled Status". Any dishonest answer could have a negative impact on your application.

5 How can I prove that I hold “Settled” or “Pre-Settled Status”?

If your application is approved, you will be granted “Settled” or “Pre-Settled Status”, depending how long you have lived in the UK. You will get a confirmation email telling you which status you have been granted. The Home Office will not give you a physical ID card as your status is “digital”. This means that your status is stored online and can be accessed through the gov.uk website. To access your digital status, you will need:

- ▶ details of the identity document you used when you applied (the number of your passport or national ID card)
- ▶ your date of birth
- ▶ access to the mobile number or email address you used when you applied as you will be sent a one-time use security code for logging in

You can update the details contained in your digital status if they change. The details that you should update in your online profile are:

- ▶ Your mobile phone number
- ▶ Your email address
- ▶ Your name
- ▶ Your UK address
- ▶ Your passport or national ID card (this can only be changed by the Home Office as they have to verify the new document)

Before the end of the transition period you are entitled to rely on your current EU law rights and should not be asked to show that you have “Settled” or “Pre-Settled Status”. You can choose to show that you hold this status if you like but you should not be compelled to. If, however, if you are being compelled to do so in order to exercise your rights or access your benefits, please report this to EU-CITIZENS-RIGHTS@eeas.europa.eu

After the end of the transition period, you may be asked to prove you hold “Settled” or “Pre-Settled Status” by organisations such as Border Force, the NHS, the DWP, Local Authorities, the DVLA, employers, banks or landlords. The Home Office will develop a service so that you can show the information about your digital status to these organisations. If you believe that you have been subject to any form of discrimination as a result of your new digital status, please report this to EU-CITIZENS-RIGHTS@eeas.europa.eu

6 Will travelling in and out of the UK change?

During the transition period, there will be no changes to the way in which all EU citizens enter the UK. You can enter the UK using your valid passport or national ID card. There should not be any requirement at the UK border for an EU citizen to show they hold “Settled” or “Pre-Settled Status”.

Once the transition period ends, if you hold “Settled” or “Pre-Settled Status” you will be able to enter the UK using your passport indefinitely, and your national ID card **until at least 2025**. After 2025, the UK may only accept national ID cards for entry if they are in the approved format, which must contain a biometric chip.

For those EU citizens **who are not covered by the Withdrawal Agreement** and do not have “Settled” or “Pre-Settled Status”, the UK government has stated that it intends to end the use of national ID cards as a document used to enter the UK **once the transition period ends**. We advise all EU citizens who intend to travel to the UK after the end of the transition period, to check whether they will be able to enter the UK using their national ID cards before they make travel plans.

And for third-country family members travelling to the EU?

After the transition period ends, third-country nationals who are family members of EU citizens **will no longer be able** to automatically enter the EU visa-free, using **residence cards** issued by the UK government under the 'EEA Regulations'. This will be the case even if the residence card has an expiry date after 1 January 2021.

Third-country nationals travelling to the EU, who are family members and have the biometric residence permit confirming their "Settled" or "Pre-Settled Status", **must check the visa requirements** of the EU Member State they intend to travel to before making travel arrangements. This applies even if they are travelling to the EU **during the transition period**.

It is free to apply. You have to complete an online application form using a computer, tablet or smartphone. The Home Office application checks three things: (1) your identity, (2) your residence in the UK and (3) any criminal record you may have.

7 Do I need to update my digital status when my passport or national ID changes?

If the passport or national ID card, that you applied for your "Settled" or "Pre-Settled Status" with, expires and you obtain a new document, it is recommended that you update your digital status with the new document, as this will make travelling into the UK a smoother process. Do not worry if you forget to do this as you will not lose your "Settled" or "Pre-Settled Status" just because you change your identity document.

Questions / Information

If you have questions, feel free to ask us on our Facebook page @EUinUK — immigration lawyers contracted by the EU Delegation will answer your question.



More information on “Pre-Settled” and “Settled Status” from the UK Government:

<https://www.gov.uk/settled-status-eu-citizens-families>

<https://www.gov.uk/guidance/eu-settlement-scheme-evidence-of-uk-residence>

More information on your rights under the Withdrawal Agreement in a questions and answers document at Commission’s questions and answers document at <https://bit.ly/2LlcxeM> and https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement/implementing-withdrawal-agreement/citizens-rights_en

More information on organisations that may be able to assist you apply for “Pre-Settled” and “Settled Status”:

www.eurights.uk

Disclaimer

Please note that this document has been drawn up for information purposes only and has no legal force. It cannot provide any legal interpretation of EU or UK legislation and is not meant to replace specialised legal advice on UK immigration rules. While best efforts have been made to provide accurate information, the European Union cannot be held responsible. The responsibility for the information on the EU Settlement Scheme and future immigration arrangements lies entirely with the UK Government which should be the first contact point for the latest information.

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