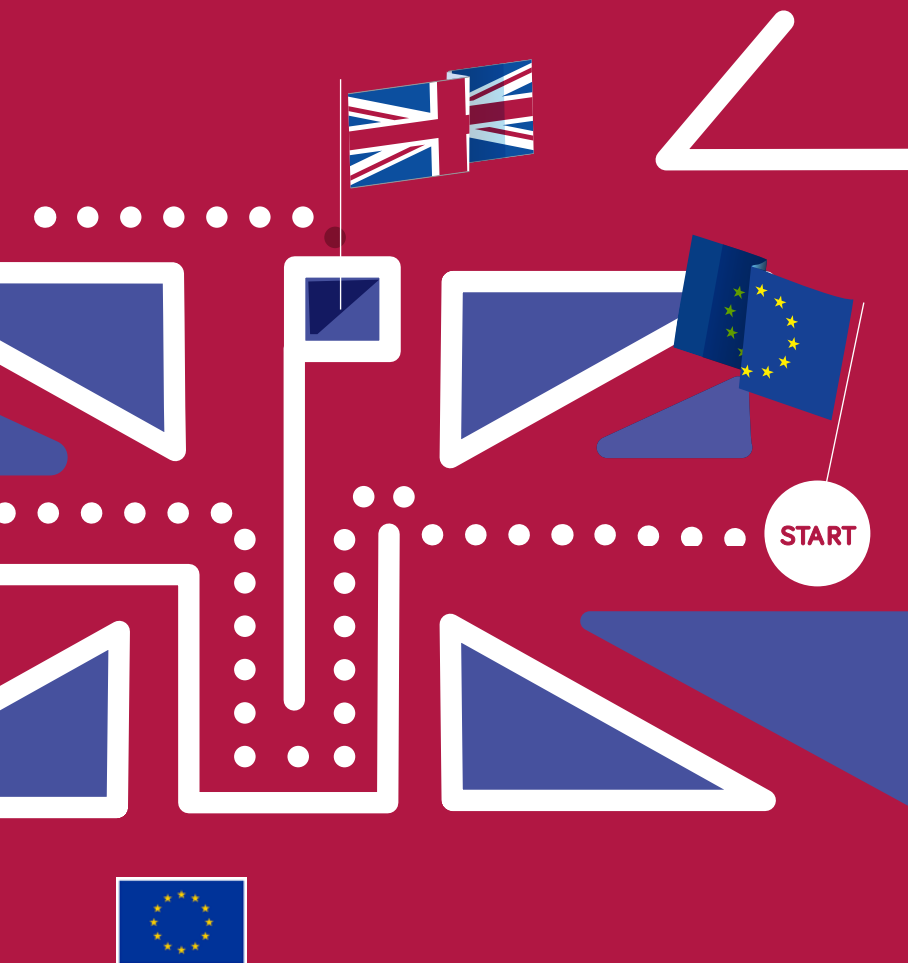


BREXIT

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?

Since 1 February 2020 the UK is no longer part of the EU. The EU and the UK negotiated the terms of the UK's exit, which is commonly referred to as the 'Withdrawal Agreement' or the 'Brexit deal'. The Withdrawal Agreement preserved EU law in the UK during a **transition period** which ended on 31 December 2020. Now that the transition period has finished, freedom of movement between the EU and the UK has also ended (however, see Section 2 for situations covered by the Withdrawal Agreement). This change has affected EU citizens and their family members 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 ⁽¹⁾, the residence status of EU citizens who arrived in the UK **before the end** of the transition period is protected and such citizens are able to apply for a new residence status under UK immigration law. The UK government set up the **EU settlement scheme (the 'scheme')**, which is based on the EU–UK Withdrawal Agreement, to provide this new residence status to EU citizens and their family members.

The scheme is a free UK Home Office application process that nearly all EU citizens residing in the UK and their family members ⁽²⁾ must complete to be able to continue to stay lawfully in the UK. If you successfully apply under

⁽¹⁾ There are separate agreements between the UK and Iceland, Liechtenstein, Norway and Switzerland that very closely resemble the Withdrawal Agreement, which means the information in this leaflet applies to European Economic Area (EEA) and Swiss citizens as well.

⁽²⁾ There are some limited exceptions to the requirement to apply, which have been set out in Section 3.

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 to the scheme before the application deadline of **30 June 2021** means that your future residence in the UK may be unlawful.

Therefore, EU citizens and their family members who arrived by 31 December 2020 – before the transition period ended – and intend to stay in the UK **must apply for this new UK immigration status by 30 June 2021**.

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, being granted a status under the scheme is **not** dependent on your employment, whether you receive benefits or whether you hold private health insurance ⁽³⁾.

- ▶ 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⁾.
- ▶ 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. That means these citizens must make two applications to the scheme to be granted settled status.

⁽³⁾ Referred to as comprehensive sickness 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



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 a PR document/card) **you must apply** for settled status. **Irish citizens** or persons who already hold valid **indefinite leave to remain or enter** ⁽⁵⁾ **are not required** to apply to the scheme, but can do so if they wish. **Dual British/EU-27 citizens** cannot apply to the scheme as they are able to live in the UK after Brexit based on their British nationality ⁽⁶⁾.

Deadlines. Your application must be made by **30 June 2021**. If an application is refused before 30 June 2021, you have the option to reapply any number of times to remedy the issue or appeal the decision to an independent immigration judge. From **1 July 2021** you might not be able to reapply if your application is refused.

4. Family members who did not live in the UK before 31 December 2020

EU citizens who are covered by the scheme can sponsor close family members who were not in the UK by 31 December 2020 to join them in the UK anytime in the future. Close family members are defined as one of the following.

- ▶ Spouses and civil partners (where the relationship existed before 1 January 2021).
- ▶ Durable partners (where the relationship existed before 1 January 2021).

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

⁽⁶⁾ Dual British/EU-27 citizens can in some circumstances sponsor their family members under the scheme.

- ▶ Dependent parents and grandparents (including a spouse's or a civil partner's dependent parents).
- ▶ Children and grandchildren including those born or adopted after 31 December 2020 (including a spouse's or a civil partner's dependent children or grandchildren). Children over 21 years old can apply if they are dependent.

In most cases the family member will need to make an application from outside the UK to join their EU sponsor in the UK. Therefore, it is important that they obtain permission to come to the UK as a joining family member before travelling.

5. How to apply for settled or pre-settled status


It is free to apply to the scheme. In most cases you will have to complete an online application form using a computer, tablet or smartphone. Some applications will have to be made on paper application forms that the Home Office will send to you after you request the form.

The Home Office application checks three things: (1) your identity, (2) your residence in the UK and (3) any criminal record you may have. If you are not an EU citizen then there will be an extra check: (4) to confirm how you are (or were, in some cases) related to an EU citizen.

(1) Identity

The application asks for your basic personal information such as your name, nationality, contact details and, if you have one, your National Insurance Number (NiNo). You have to confirm your identity and nationality using a valid passport (for applicants of all nationalities) or you can use a valid national ID card (if you are an EU/EEA/Swiss applicant). To confirm your identity you have the following options.

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- ▶ If you have a valid passport or national ID card with a biometric chip (look for this symbol on your document: , 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, which can be done in one of two ways: (1) by providing your NiNo, if you have one, or (2) by using documentary evidence showing that you are resident. You can use a combination of your NiNo and documents to show your UK residence. If you give your NiNo when you apply, the application process will automatically check your Her Majesty's Revenue and Customs and Department for Work and Pensions 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. If your NiNo does not show your UK residence or shows an incomplete picture, then the application form will ask you to provide documents to show that you are or were living in the UK. How much UK residence you need to show depends on whether you are applying for settled or pre-settled status.

If you are applying for settled status you need to show you have been living in the UK **for 5 continuous years**. If the automatic NiNo check shows gaps in your 5-year residence or you do not have a NiNo, you may need to provide additional documents to show you have been living in the UK. The Home Office has guidance on what types of documents are best to show your residence, such as council tax bills, utility bills or bank statements, but please be aware that this is just guidance, so you can submit whatever evidence you have to demonstrate your 5 continuous years. We have put the link to the Home Office residence guidance at the end of this leaflet.

If you are applying for pre-settled status because you have not yet lived in the UK for 5 continuous years, then your automatic NiNo check or documentary residence evidence must show that you have been present in the UK **at some point in the last 6 months**.

Any supporting documents should be scanned and uploaded during your online application before you submit it. After your application is submitted, if there are still gaps in your UK residence you should be contacted by the Home Office by email or telephone with a request that you provide more documentary evidence. You should regularly check your spam or junk email folders for emails from the Home Office.

(3) Criminality

You will be asked about your criminal record. If you have 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.

(4) Relationship to an EU citizen

If you are not an EU citizen you can still apply to the scheme if you have a qualifying relationship now, or in the past, to an EU citizen. When you apply to the scheme you will need to provide evidence of how you are (or

were) related to the EU citizen even if the relationship to them was in the past. What evidence you will need to provide with the application will vary depending on what the relationship is. For example, if you are married to an EU citizen then you will be required to provide proof of your marriage, which can be evidenced by your marriage certificate.

The application for non-EU citizens is slightly different and is made in one of two ways, as follows.

- ▶ If you are using a passport or a biometric residence permit (issued under UK immigration law) as ID to apply, you will have to select the postal option when you fill out the online application. You will also need to book a biometric appointment at a visa centre and take your ID to this appointment to be scanned rather than posting the ID to the Home Office.
- ▶ If you have a valid biometric residence card issued to you as a family member of an EU citizen then you can use the Home Office EU Exit: ID Document Check app or a scanning location and you will not have to attend a biometric appointment.

We have prepared a more detailed leaflet for non-EU family members which contains more information ^(?).

6. 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 on how long you have lived in the UK. You will get a confirmation email telling you which status you have been granted. There is no standard time frame for your application to be processed by the Home Office; some applications will be processed very quickly, in a matter of days and weeks,

(?) This leaflet is available at: <https://op.europa.eu/en/publication-detail/-/publication/d0c072f4-e355-11ea-ad25-01aa75ed71a1/language-en/format-PDF/source-155482312>

but some applications will take longer, for example if the Home Office needs to request more documents or information from you. You can contact the Home Office's EU Settlement Resolution Centre by telephone (0300 123 7379) or online to request information about the processing of your application after you have submitted it.

The Home Office will not give you a physical ID card if you are an EU citizen 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
- ▶ email address
- ▶ name
- ▶ UK address
- ▶ passport or national ID card.

If the passport or national ID card that you applied for your settled or pre-settled status with expires and you obtain a new one, it is recommended that you update your digital status with your new passport or national ID card details 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 have changed your identity document.

7. Who can ask to see my status and how do I show it to them?

Between **1 January 2021 and 30 June 2021** there will be a **grace period** during which time EU citizens can voluntarily show their settled or pre-settled status to employers or landlords but **cannot be required to do so**. In the grace period EU citizens can still obtain employment and rent property by showing their passport or national ID card.

From 1 July 2021, you may be asked to prove you hold settled or pre-settled status by, for example, employers, landlords, the National Health Service, the Department for Work and Pensions, local authorities, the Driver and Vehicle Licensing Agency and banks. The Home Office has developed 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

8. Will travelling in and out of the UK change?

Between **1 January 2021 and 30 June 2021 (the grace period)**, there should be no significant change to how you enter the UK using your passport or your national ID card. However, as the UK is operating a new immigration system for EU citizens who are not covered by the scheme, it is possible that you may be asked some questions about the purpose of your entry to the UK, in which case you can confirm that you live here.

From 1 July 2021, holders of settled or pre-settled status may need to show their status on entry to the UK. 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.

From 1 October 2021, those EU citizens **who are not covered by the Withdrawal Agreement** and do not have settled or pre-settled status will not be able to use their national ID card as a document to enter the UK as they must travel using a valid passport. These EU citizens will be able to enter the UK for a temporary stay of up to 6 months without applying for a visa. Those who wish to come to the UK for longer periods for work or study need to apply for a visa from outside the UK first before they travel. More information about which visas are available can be found on the gov.uk website.

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

From **1 January 2021**, third-country nationals who are family members of EU citizens **are no longer able** to automatically enter the EU visa-free using **residence cards** issued by the UK government under the EEA regulations ⁽⁸⁾. This is the case even if the residence card has an expiry date after 1 January 2021. Therefore, third-country nationals travelling to the EU **must check the visa requirements** of the EU Member State they intend to travel to before making travel arrangements.

⁽⁸⁾ EEA regulations residence cards were issued under EU law rather the EU settlement scheme.



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 can be found in a questions and answers document available 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 in applying 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.

The information provided does not reflect the official opinion of the EU.

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