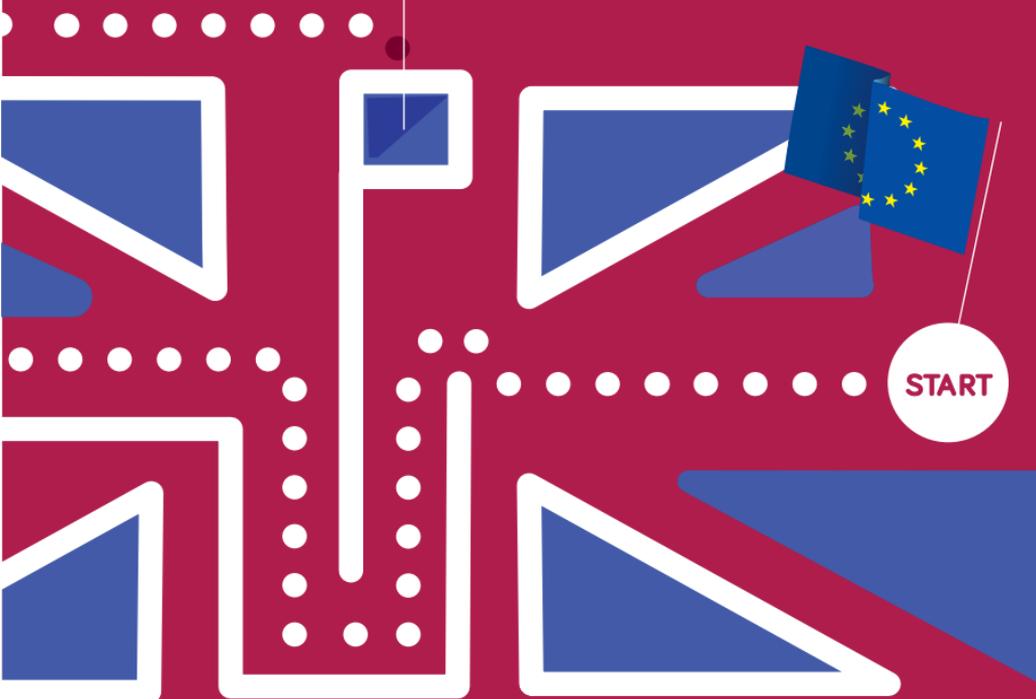




European
Commission

BREXIT

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



START

In this leaflet you can find information about Brexit, how it may impact you as an EU citizen and your family living in the UK, and what you may need to do next. This leaflet summarises key issues under a ‘deal’ and in a ‘no-deal’ Brexit. It is purely for information purposes and has no legal force. It does not provide any legal interpretation of EU or UK legislation and is not meant to replace specialised legal advice on UK immigration rules.

Manuscript completed in August 2019

The European Commission is not liable for any consequence stemming from the reuse of this publication.

Luxembourg: Publications Office of the European Union, 2019

© European Union, 2019

Reuse is authorised provided the source is acknowledged.

The reuse policy of European Commission documents is regulated by Decision 2011/833/EU (OJ L 330, 14.12.2011, p. 39).

For any use or reproduction of photos or other material that is not under the copyright of the European Union, permission must be sought directly from the copyright holders.

Print	ISBN 978-92-76-10011-9	doi:10.2775/761882	IK-04-19-567-EN-C
PDF	ISBN 978-92-76-10010-2	doi:10.2775/881279	IK-04-19-567-EN-N

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?

On 23 June 2016 the majority of people in the UK who voted in the EU referendum decided that the UK should leave the EU. This process of withdrawal is commonly referred to as “**Brexit**”. When the UK leaves the EU, freedom of movement⁽¹⁾ between the EU and the UK is expected to end on terms that will depend on how the UK withdraws from the EU (‘deal’ or ‘no-deal’). This will affect EU citizens (and also citizens of Switzerland, Norway, Iceland and Liechtenstein), their family members in the UK, and British citizens living across the EU.

The EU and the UK have negotiated the terms of Brexit. This is commonly referred to as the (draft) **Withdrawal Agreement** or the ‘**Brexit deal**’. However this has not been ratified to date. According to the deal, EU law – including EU free movement – will continue to apply in the UK until the end of a transition period (31 December

⁽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.

2020). There is a possibility to further extend this period by one or two years.

If the Withdrawal Agreement cannot be ratified (**'no-deal' Brexit**) before the UK exits the EU, free movement will end immediately after the UK's withdrawal from the EU.

2 What is "Settled Status"?

The end of EU free movement means that the residence status of EU citizens who arrived before Brexit should be protected under UK immigration law. To do so the UK Government set up the **EU Settlement Scheme** which is based on the EU-UK Withdrawal Agreement.

The EU Settlement Scheme is a UK Home Office application process that nearly all EU citizens residing in the UK, and their family members, must complete to be able 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 would mean that your future residence in the UK will be unauthorised and may be unlawful. Therefore, all EU citizens who arrive before Brexit and intend to stay in the UK after 31 December 2020 (see point 5 below) **must** take action and **apply for this new UK immigration status**.

See more about "Settled Status" under question 4.

3 Is the EU Settlement Scheme available in a 'deal' and 'no-deal' Brexit?

Yes it is. The UK Government has confirmed that the **EU Settlement Scheme will be implemented whatever form Brexit takes**.

However, note that there will be some differences between the Scheme implemented under 'the deal' and in a 'no-deal' Brexit scenario (as specified under question 4 and 5).

4 What will happen if a Brexit deal enters into force?

If there is a Brexit deal, the EU Settlement Scheme will be implemented in full and be in strict accordance with the terms of the EU-UK Withdrawal Agreement. **You have to apply if you and your family have been resident in the UK before 31 December 2020 and intend to stay in the UK thereafter.** It's free to apply.

The **requirements** of the EU Settlement Scheme are mainly residence based: the Home Office will check how long you have been in the UK and not what you have been doing here. Therefore, "Settled Status" is not dependent on your employment, whether or not you receive benefits or hold private health insurance⁽²⁾.

- ▶ This means that most EU citizens and their family members who have been continually resident in the UK for at least 5 years should get **"Settled Status"**.
- ▶ 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 5-years 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" card) you must apply for "Settled Status". Irish citizens or persons who already hold "Indefinite

⁽²⁾ Referred to as Comprehensive Sickness Health Insurance.

Leave to Remain" (ILR) 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 31 December 2020, 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 31 December 2020 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 Should I apply for the EU Settlement Scheme if there is a 'no-deal' Brexit?

Yes, you must do so. The EU Settlement Scheme and the application process will remain largely unchanged. Note, however, that in such scenario the Scheme will not be legally based on the Withdrawal Agreement, and there will be some differences:

The Scheme will be open to you and your family members if you have lived in the UK **before** it left the EU (instead of 31 December 2020 in a 'Brexit deal'). You will have to **apply by 31 December 2020** (instead of 30 June 2021 as in a 'Brexit deal') to be able to stay in the UK after this date. The application will remain free of charge.

If your application is refused you can re-apply before 31 December 2020 or challenge the refusal through the Home Office administrative review or by way of a judicial review claim.

If your close family members would like to join you in the UK, they must arrive before **29 March 2022**. New spouses and civil partners (who become related after Brexit day) must apply by 31 December 2020. If family members do not apply by these dates, they will need to seek permission from the UK under the more restrictive UK immigration laws.

6 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 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 devices will be able to scan this.
- ▶ If you do not have a passport and have a national ID card with no biometric chip, you will have to mail this to the Home Office for verification.
- ▶ If you have a passport or a national ID card with a biometric chip, but you do not have a newer Android device, you can go to one of the locations listed by the Home Office to scan your document.

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') or by other documentary evidence. If there are gaps in your 5-years residence or if you do not have a National Insurance Number, you may need to provide additional documents (such as utility bills). 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 NiNo or documentary evidence must show that you have been living in the UK at some point in the last 6 months.

(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.

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 of your digital status. If you need to prove your status you will also be able to access this online.

7 What if I arrive in the UK after Brexit under a 'no deal' scenario?

The UK Government intends to implement a new immigration system from 1 January 2021. To bridge the time between Brexit day and 1 January 2021, the UK Government will implement a temporary immigration system for EU citizens wishing to visit or come to live in the UK. This system is for those EU citizens who do not fall under the EU Settlement Scheme as they were not living in the UK before Brexit day.

If you come to the UK after Brexit you will be able to enter as you do now, with a passport or national ID card. On arrival you will be immediately granted permission to visit, work

and study without taking any further action. **There is no need for you to apply to the Home Office for an immigration status unless you wish to stay in the UK after 31 December 2020.**

If you intend to stay in the UK after 31 December 2020, you will need to apply before 1 January 2021 for an immigration status called “European Temporary Leave to Remain”.

This is a free, non-extendable status which lasts for 36 months from the date it is granted. It provides you with permission to work and study. However, you should only be asked to show that you hold this status after 1 January 2021. Until this date your passport or national ID card is sufficient to show that you have the right to work and study.

Before your “European Temporary Leave to Remain” expires, and if you wish to stay in the UK, you will need to apply for another immigration status under the new immigration system in place after 1 January 2021. If you cannot meet the requirements for another immigration status at the end of your “European Temporary Leave to Remain”, you will need to leave the UK.

Your close family members can accompany you to the UK. If they are non-EU (or third-country) close family members, they will need to apply for an EEA Family Permit before travelling. Once in the UK, your third country family members will have to apply for “European Temporary Leave to Remain”, which they can do once you have made your own application.





Questions / Information

If you have questions feel free to ask us on our Facebook page @ECinUK — immigration lawyers contracted by the European Commission will answer your question.

More information on “Pre-Settled” and “Settled Status”: www.gov.uk/eusetledstatus

More information on your rights under the Withdrawal Agreement if ratified in the Commission’s questions and answers document at <https://bit.ly/2LlcxeM>

More information on organisations that may be able to assist you: 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 Commission 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 European Commission.

