

GUIDANCE FOR EU CITIZENS LIVING IN THE UK AFTER BREXIT



ARE YOU ONE OF THE 3.4 MILLION EU NATIONALS LIVING IN THE UK?

The Government plans to change the immigration rules affecting you after Brexit. If you plan to continue living, working and studying in the UK you will need to apply for permission to remain under the 'EU Settlement Scheme'.

This leaflet provides general guidance on applying for your new status, and we advise you to start this process as soon as possible.

Most importantly, we want to send you a clear message:

#LDNLOVESEU AND WE WANT YOU TO STAY.

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DO I NEED TO APPLY FOR A NEW STATUS TO REMAIN IN THE UK?

At the moment, most EU/EEA/Swiss citizens have the right to live, work and study in the UK for as long as they wish. However, this will change after the UK leaves the EU.

If you're an EU/EEA/Swiss citizen and you wish to continue living in the UK after Brexit, **you will need to apply for the new 'EU Settlement Scheme' by 30 June 2021**. If the UK leaves the EU without a deal, the deadline for applying will be 31 December 2020.

You are advised to apply for the new status **as soon as possible**. The same applies to your EU/EEA/Swiss and non-British citizen family members living in the UK (including partners, children and dependent relatives including parents and grandparents).

Failure to do so is likely to lead to you and your family members losing your right to stay in the UK.

*** PLEASE NOTE** that this factsheet is designed to provide information only. The law may have changed since this was produced in January 2020 and you should always seek up-to-date legal advice and information. The author and publisher cannot accept responsibility for any reliance placed on the information contained in this factsheet.

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WHAT IS SETTLED STATUS?

In order to continue living in the UK indefinitely, you will need to be granted Settled Status. Settled status is either a grant of indefinite leave to enter (ILE) (where the application is made from outside the UK) or indefinite leave to remain (ILR) (where the application is made from within the UK).

To be eligible for this, you'll usually need to have had 'continuous residence' in the UK, the Channel Islands or the Isle of Man. This means you can't have been absent for more than 6 months in any 12-month period during the past 5 years. You are allowed to have one period of absence of up to 12 months for an important reason such as childbirth, study, or an overseas work posting (find a full list of exemptions the Immigration Rules Appendix EU¹ and in Home Office Guidance²).

If you have been in the UK for over five years, make sure you are granted Settled Status (not Pre-Settled Status) when you apply.

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WHAT IS PRE-SETTLED STATUS?

Pre-settled status is a permission to remain for 5 years (and is called 'limited leave to enter' where the application is made outside the UK and limited leave to remain (LTR) where the application is made within the UK. If you have moved to the UK before 31 December 2020, but haven't lived in the country for a five year period (or you've had a longer absence abroad that breaks the continuity of your 5 year period) you will usually get Pre-Settled status for a 5 year period. Once you've been in the UK for the full five years, you will then be able to reapply for Settled Status.

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CAN I LOSE MY SETTLED OR PRE-SETTLED STATUS?

Yes, you lose your Settled Status if you leave the UK for more than 5 years in a row as an EU citizen (or more than 4 years in a row if you are a Swiss citizen, or the non-UK/EU/EEA family member of a Swiss citizen). You lose your Pre-Settled Status if you spend more than 2 years in a row outside the UK. If you want to qualify for Settled Status, you'll need to maintain your 'continuous residence' in the UK.

¹ Annex 1 (definitions) to the Immigration Rules Appendix EU: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu> (shortlink: bit.ly/ImmigrationRulesAppendixEU).

² Home Office Guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/836603/EU_Settlement_Scheme_caseworker_guidance.pdf (shortlink: bit.ly/CaseworkerGuidance).

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HOW DO I APPLY?

It is free to apply for the 'EU Settlement Scheme'. There are currently two ways to do this:

- 1 If your passport / ID card is biometric, you can scan it and upload your photo using the **'EU Exit: ID Document Check' app** for Android or iPhone 7 or above, or
- 2 Send your ID in the post and upload your photo using the online application form here: <https://apply-to-visit-or-stay-in-the-uk.homeoffice.gov.uk/web-or-app>.

You will need to provide a valid passport/national ID card, proof of your residence in the UK (unless you have a valid permanent residence document), an email address and a phone number. You will also be asked to give your National Insurance number, if you have one.

If you have been in the UK for 5 years in a row but the Government doesn't have enough data in its records to confirm this, you'll need to upload additional documents proving the length of your residence.

Your relatives will need to give your application number when they apply. If they are not EU/EEA or Swiss citizens, they will need to upload proof of their relationship to you. **Citizens under the age of 18 will also need to have an application completed for them.**

FOR MORE INFORMATION, SEE GOV.UK WEBSITE PAGES:

Immigration Rules Appendix EU
<http://bit.ly/ImmigrationRulesAppendixEU>

Apply to the EU Settlement Scheme
<http://bit.ly/ApplyEUSS>

This leaflet was drafted with advice from Jan Doerfel, specialist immigration barrister at the Chambers of Jan Doerfel: <https://www.jandoerfel.com>

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WHEN IS THE DEADLINE TO APPLY, AND WHAT HAPPENS IF I MISS IT?

The deadline for applying is currently **30 June 2021**. We advise you to **apply as soon as possible - and ideally before 31 December 2020 to ensure stability after this date**. This will also ensure you have enough time to get advice and fix any problems without running the risk of missing the deadline altogether!

If you haven't applied by the deadline and don't hold any leave to remain at this time, then this is likely to affect your rights to rent, to employment, to benefits and healthcare. **Make sure you preserve your right to stay in the UK!**

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CAN MY APPLICATION BE REJECTED?

Yes. Your application for Settled Status can be rejected if you haven't been in the UK for a 5 year continuous period (in which case you can still be granted Pre-Settled Status).

It can also be rejected on the grounds of 'suitability'. For example, if a deportation or exclusion order has been made against you, or if false or misleading information has been submitted in support of your application (for more information, see Immigration Rules Appendix EU³).

During the application process, you'll be asked to declare any unspent criminal convictions. You don't need to declare warnings ('cautions') and alternatives to prosecution such as speeding fines. If you've only been convicted of a minor crime, you'll still be eligible for Settled or Pre-Settled Status. If you've been to prison, you'll usually need 5 years' 'continuous residence' from the day you were released to be considered for Settled Status.

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WHAT CAN I DO IF MY APPLICATION IS REJECTED?

If you believe you have been granted the wrong status or your application is refused on eligibility grounds, you may be able to apply for an administrative review online.⁴ This application costs £80 per person and has to be made within 28 days. It can be made from inside or outside the UK.

If you want to apply again – for example, with new evidence proving 5 years' residence – you can do this for free at any time before the current deadline of **30 June 2021**.

³ Immigration Rules Appendix EU: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-eu> (shortlink: bit.ly/ImmigrationRulesAppendixEU).

⁴ Apply for an administrative review online: <https://www.gov.uk/guidance/eu-settlement-scheme-apply-for-an-administrative-review> (shortlink: bit.ly/EUSSAdministrativeReview) and <https://visas-immigration.service.gov.uk/product/administrative-review> (shortlink: bit.ly/MoreInfoAdministrativeReview).

PLEASE HELP SPREAD THIS MESSAGE TO YOUR EU CITIZEN COLLEAGUES, FRIENDS AND NEIGHBOURS.

If you need help in your own language, please visit the London Mayor's EU Londoners Hub: <https://www.london.gov.uk/what-we-do/eu-londoners-hub>

For more assistance, contact the Home Office's EU Settlement Resolution Centre on 0300 123 7379 (from within the UK) or +44 (0)203 080 0010 (from outside the UK).

You can also contact organisations including Citizens' Advice and your local law centre for guidance. Alternatively, seek independent legal advice from a solicitor, barrister or accredited OISC Immigration Advisor on your specific circumstances.