



ROUND TABLE

Home Office EU Exit Engagement Group

DATE

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HOSTED BY

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IN PARTNERSHIP WITH

RSM UK



USA • UK • SWEDEN • UAE • SOUTH AFRICA • SINGAPORE • AUSTRALIA

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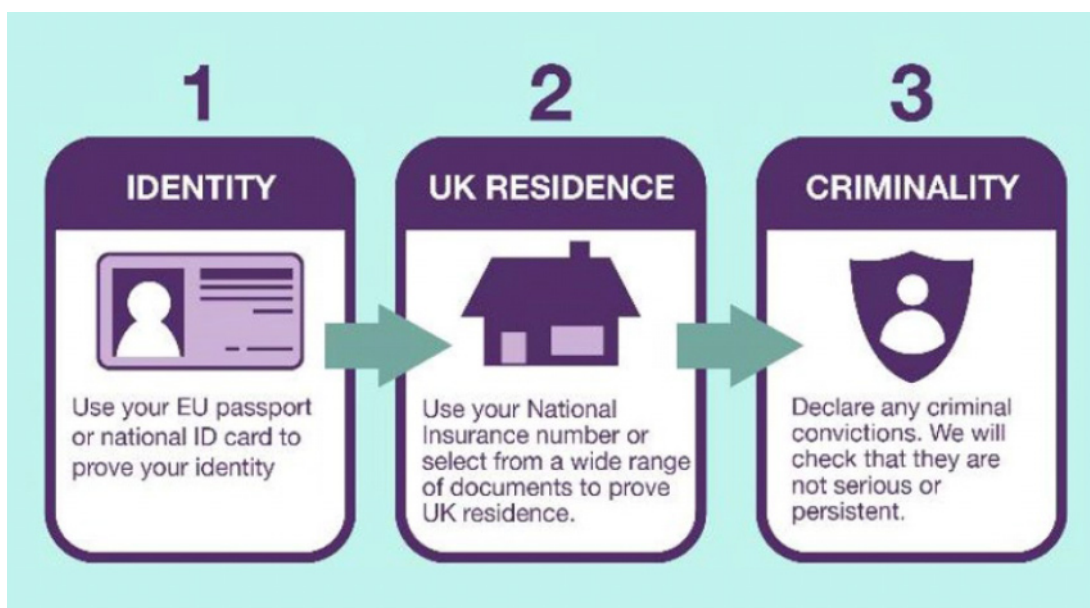
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1. Introduction

On 30 March 2019, the EU Settlement Scheme opened to all in-country applications. EU, EEA and Swiss citizens, and their family members, resident in the UK, will need to apply to secure their rights through a free, simple, digital system. This will give them a status in UK law which will remain valid after we leave the EU. So far over 750,000 applications have been made.

There is plenty of time to apply and the application process is quick and user-friendly. The Home Office worked closely with representatives of EU citizens on its design and development.

It is a three-step process, assessing applicants on identity, residence and criminality.



2. What is the EU settlement scheme?

Eligible applicants to the EU Settlement Scheme will be given either pre-settled status or settled status. The status given generally depends on how long you have lived in the UK when you apply.

To obtain settled status EU, EEA and Swiss citizens, and their family members, will generally need simply to have lived continuously in the UK for five years. Those with less than five years' residence will be granted pre-settled status until they accumulate five years' continuous residence.

With pre-settled status and settled status, applicants can:

- Work in the UK
- Use the NHS
- Enrol in education or continue studying
- Access public funds such as benefits and pensions, if eligible for them
- Travel in and out of the UK

Once an applicant has settled status, they are able to stay in the UK for as long as they wish. They can also leave the UK for up to five years without their settled status lapsing. Swiss citizens and their family members can spend up to four years outside the UK without their settled status lapsing.

Those with pre-settled status will be given five years' leave to accumulate the five years' continuous residence generally required for settled status. They will then be able to swap this for settled status.

Those who hold Permanent Residence will need to convert this to settled status, by applying to the EU Settlement Scheme. Those who hold existing indefinite leave to enter or remain do not need to apply to the EU Settlement Scheme, but may do so if they wish, to swap this for settled status – as the indefinite leave to remain granted under the Scheme has additional benefits, like the period which can be spent outside the UK before it lapses.

Irish citizens do not need to apply to the EU Settlement Scheme to protect their status and rights. They are covered by Common Travel Area (CTA) arrangements.

Source: Home Office Presentation, 12 June 2019

3. Right-to-work checks

Remember: RTW checks don't change until 2021. During the roundtable event The Home Office provided this advice to employers about RTW checks.

All employers, irrespective of size or sector, have a role to play in preventing illegal working by complying with regulations under the Immigration, Asylum and Nationality Act 2006. They fulfil this duty by carrying out a simple, three step check that a prospective employee is legally entitled to work in the UK.

It is the employer's responsibility to check the right to work of their employees. Home Office guidance and tools are available to employers at:

<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

An EU, EEA or Swiss citizen need only show their passport or national identity card to prove their right to work in the UK until the future border and immigration system is introduced.

The Home Office has introduced an online checking service enabling migrants with modern immigration documents (non-EEA nationals holding biometric residence permits or cards and EU citizens granted status under the EU settlement scheme) to demonstrate their right to work to UK employers by giving digital access to the person's Home Office right to work record as an alternative to using physical documents.

The checking service can be found at: <https://www.gov.uk/view-right-to-work>

New regulations came into force on 28 January 2019 which enable employers to rely on this new service to discharge their legal obligations to prevent illegal working. The arrangements operate on the basis of the migrant consenting to the employer seeing their digital right to work record.

Source: Right to work – Requirements on Employers, EU Exit Immigration Strategy, Home Office.

As an employer, you should:

- Continue to carry out current right to work checks (e.g. passport and/or national identity card) in the same way at the start of employment.
- Continue to process new starters in the same way as you do now.
- Be aware that changes to right to work checks will be introduced under the Future Skills-based Immigration System in 2021.

As an employer, you should not:

- Feel obliged to interpret information provided by the Government for employees nor provide immigration advice.
- Make retrospective status checks on current employees – there is no legal obligation to do so.
- Discriminate against EU/EEA/Swiss citizens in light of the UK's decision to leave the EU as both a prospective and current employer.

As an employer, you may like to:

- Use your position as a trusted source of information to help us reach the 3.5 million EU citizens that need to register on the EUSS to retain the right to live, work and study in the UK after Brexit. You can do this by: signposting the information, the government is providing on the EUSS; using the toolkit materials we have developed to increase awareness of the scheme amongst your EU/EEA/Swiss citizen employees.

4. Q&A session from the event

Thank you to all who asked questions throughout the event. Blanca Grey (EU Exit Immigration Strategy) at the Home Office has provided full detailed answers:

Q1. Deadlines

What if you don't apply by the deadline?

The Home Office will take a pragmatic approach to those who have a good reason for missing the deadline by allowing them to apply late. This is a requirement of the Withdrawal Agreement to which the UK will be bound in a deal scenario and we will follow the same approach in a no deal scenario. The Home Office will publish guidance on this in due course.

Q2. Vulnerable people

Would a family member who has power of attorney for a vulnerable person be able to apply on their behalf?

Yes.

Q3. No-deal rules vs. deal rules

What are the rules for family members in each scenario?

DEAL

- Family members who are living with, or join, an EU, EEA or Swiss citizen resident in the UK by the end of the planned implementation period on 31 December 2020 are covered by the draft Withdrawal Agreements and will be eligible to apply for UK immigration status under the EUSS.
- EU, EEA and Swiss citizens covered by the EUSS can be joined at any point in the future by close family members resident overseas on 31 December 2020, if the relationship existed at that date and it continues to exist when the person wishes to come to the UK.
- EU, EEA and Swiss citizens covered by the EUSS can be joined at any point in the future by children born or adopted after 31 December 2020.
- Swiss citizens in scope of the Swiss citizens' rights agreement can be joined by new spouses under current rules for five years after the specified date (31 December 2020).

NO DEAL – FAMILY MEMBERS OF CURRENT RESIDENTS

- EEA and Swiss citizens and their family members in the UK by 29 March 2019 will have until 31 December 2020 to apply for status under the EUSS.

- EU citizens with EUSS status can be joined in the UK, by 29 March 2022, by close family members, where the relationship existed on exit day (or where a child was born overseas after this date) and continued to exist when the family member applies.
- EEA citizens with status can be joined by future spouses and partners (where the relationship was established after exit) and other dependent relatives until 31 December 2020.
- EEA EFTA and Swiss citizens in scope of the EEA EFTA or Swiss citizens' rights agreements can be joined at any point in the future by close family members where the relationship existed on exit day (or where a child was born overseas after this date) and continues to exist when the person wishes applies.
- Swiss citizens in scope of the Swiss citizens' rights agreement can also be joined by new spouses under current arrangements for five years after exit day in a no-deal scenario.
- All other future family members wishing to join EU, EEA and Swiss citizens will need to apply under the UK's Immigration Rules.

NO DEAL – FAMILY MEMBERS OF EU, EEA AND SWISS CITIZENS ARRIVING POST-EXIT

- EU, EEA and Swiss citizens who come to the UK after free movement ends will benefit from a transition period before the future skills-based immigration system begins. They can be accompanied or joined by close family members.
- Arrangements for EU, EEA and Swiss citizens and their family members coming for holidays or for short visits for work or study, for the duration of less than three months, will not look any different.
- Newly arrived EU, EEA and Swiss citizens and their family members will need to apply for permission to stay for longer than three months during the transition period. Subject to identity and criminality checks, they will be given European temporary leave to remain, which will last for 36 months.
- European temporary leave to remain will be non-extendable and does not guarantee a route to settlement in the UK. EU, EEA and Swiss citizens who want to stay in the UK beyond 36 months will need to apply and qualify under the new skills-based immigration system, which will begin from 2021.

BACKGROUND AND DEFINITIONS

- 'Close family members' means spouses, civil partners, durable partners, dependent children and grandchildren, dependent parents and grandparents.
- Children born in the UK to a parent settled here are automatically British citizens.

Q4. Temporary workers

Is there any guidance on leaving without a deal for temporary workers?

Temporary workers will be able to apply for status under the EU Settlement Scheme if they are resident before exit. If they have not been resident for five continuous years, they will be granted pre-settled status lasting five years. They will be able to continue working in the UK during this period but must maintain their continuity of residence to then be eligible for settled status. If they do not maintain their continuity of residence, then they will not be eligible for settled status and would need to find a right to reside/work under the future immigration system.

Q5. 3-month rule

Can you provide clarity over the 3-month rule, in relation to those attendees that are responsible for 'managing a global population'? For example, If the employee returns to their home country after 2.5 months and then returns to the UK (when the clock resets). is there a minimum time that they need to be out of the country?

No – there is no minimum time for which they need to be out of the country.

Q6. Frontier workers

They come to the UK to work and be paid from here or do they have to be paid by a company in their region?

It doesn't matter where they are paid, just that they travel regularly to the UK to work.

Q7. Secondments

What would an EU National have to apply for if they were being sent to the UK on a 6-month secondment?

- If arriving during the implementation period in a deal scenario, they would not need to apply for anything if their secondment ends before the 31 December 2020.
- If they are coming to the UK after exit in a no-deal scenario, they would need to apply for Euro TLR within three months of their arrival to be able to stay for the whole 6 months.

Q8. The role of employers

What duties as employers are they expected to fulfil?

- An employer may like to use their position as a trusted source of information to help us reach the 3.5 million EU citizens that need to register on the EUSS to retain the right to live, work and study in the UK after Brexit. they can do this by:
- Signposting the information, the Government is providing on the EUSS.
- Using the toolkit materials, we have developed to increase awareness of the scheme amongst your EU/EEA/Swiss citizen employees.
- An employer should not feel obliged to interpret information provided by the Government for employees nor provide immigration advice.

What resources are available to employers who want to proactively support their employees?

- The employer toolkit equips employers with the right tools and information to support EU citizens and their families to apply to the EU Settlement Scheme.

Links to the employer toolkit are available in the resources section of this document.

Q9. Family members

Earlier in the slides it said that non-EU family members can apply for the scheme and be granted settled status if they've been in the UK for 5 years or more, however I have an employee who has applied via this route, who has been in the UK for 5 years, but has been given pre-settled status because he's only been married to the EU national for less than 5 years. Is this a general approach? I was slightly surprised by this result. If so, I think it should be clear on gov.uk that the length of time married to the EU national will be considered as part of the application?

The EUSS only covers periods of residence as the family member of an EEA citizen, not any periods of residence where they were resident under our domestic rules as a worker for example.

- So, a partner before marriage is not considered a family member, even if they can prove the relationship and that they've lived together in UK for 5 years?
- Unmarried partners (also known as durable partners) are covered by the EUSS. However, in order to have time counted as a durable partner, the applicant must have held a residence card issued by the UK during this period.

Can you provide clarity over the process for children?

Children under the age of 21 have two options for applying to the EUSS:

- Apply in their own right – their application will be considered against their period of residence.
- Apply as a family member and link their application to one of their parents – they will then be granted the same status as their parent, irrespective of how long they have been resident in the UK.

5. Resources

Materials to support employers

TOOLKIT INFORMATION PACK

Key information about the EU Settlement Scheme and guidance for employers on how to use the toolkit materials can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/799885/EU_Settlement_Scheme_Employer_introduction.pdf

EU settlement scheme

GUIDANCE

Full guidance and assistance are offered by the Home Office. More information on this can be found at: <https://www.gov.uk/settled-status-eu-citizens-families>

Materials to share with EU citizens

BRIEFING PACK

To be used for presentations at face-to-face events or webinars with employees.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/799886/EU_Settlement_Scheme_Employer_briefing_information.pdf

POSTERS

Visually engaging posters and one-pagers providing key info about the scheme and timelines.

EU Settlement Scheme

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795659/Poster_EU_Settlement_Scheme.pdf

EU Settlement Scheme Northern Ireland

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795664/Poster_EU_Settlement_Scheme_Northern_Ireland.pdf

FACTSHEETS AND FLOWCHARTS

Focusing on important information, eligibility requirements and process.

Factsheet 1: Short introduction to the EU Settlement Scheme

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795647/Factsheet_1_Introduction_to_the_EU_Settlement_Scheme.pdf

Factsheet 2: Support available for EU citizens in the UK

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795651/Factsheet_2_EU_Settlement_Scheme_Support_available.PDF

Flowchart 1: How to apply to the EU Settlement Scheme

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795655/Flowchart_1_EU_Settlement_Scheme_How_to_apply.PDF

Flowchart 2: How to verify your identity

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795657/Flowchart_2_EU_Settlement_Scheme_Verify_your_identity.pdf

VIDEOS

Informative videos, including an application process animation, as well as videos of 'EU citizens' stories.'

<https://www.gov.uk/government/publications/eu-settlement-scheme-employer-toolkit>

SOCIAL MEDIA

Social media channels include assets to download and share to extend the reach, including graphics and short animations.

Twitter: <https://twitter.com/ukhomeoffice>

Facebook: <https://www.facebook.com/ukhomeofficegov/>

LinkedIn: <https://www.linkedin.com/company/the-home-office>

Insight available from K2 Corporate Mobility and Harbour HR



Immigration Statement of Changes

2 Apr 2019

Simon Higson provides commentary on The Statement of Changes to the Immigration Rules (HC1919), which makes changes to existing systems of migration, includes further changes to the EU Settlement Scheme, the introduction of two new visa types and the closure of Tier 1.



Introduction of online right to work checks for migrant workers

9 Apr 2019

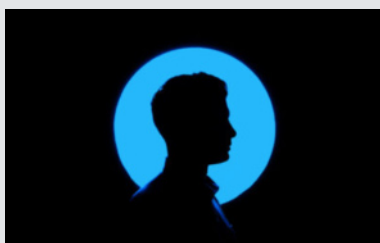
Simon Higson provides key commentary on the introduction of online right to work checks for migrant workers and highlights what you need to know about this new streamlined approach.



Commentary update: future skills-based immigration system in the UK

16 Apr 2019

The Home Office published the white paper on the future skills-based immigration system at the end of 2018. Given the decision to move the Brexit deadline to 31 October 2019 we have updated our previous commentary.



Sponsorship licence compliance checks and what you need to know to protect your business

30 May 2019

Simon Higson discusses employers' duties and responsibilities as a sponsor license holder to ensure compliance for your employees and your business.



New Start-up visa and Innovator route for the UK

5 Jun 2019

Simon Higson explains more about the UK's new Start-up visa and Innovator route, following the statement of changes earlier this year.



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