Immigration

Brexit - Advice for European nationals in the UK

Answers not options...
What do we know?

The UK has reached an agreement with the EU on the rights of citizens of the EU currently living in the UK.

The rights of EU citizens to move to the UK and to reside in the UK will not change until the date the UK leaves the European Union; 29 March 2019.

There will be an implementation period which will run to 31 December 2020, during which time rights are preserved.

A new scheme for settled status and temporary status will be introduced before the end of 2018 and will operate on a voluntary basis until 30 June 2021. This will then become mandatory.
Proposal for EU Citizens in UK

• EU citizens who are currently residing lawfully in the UK will be able to continue doing so.

• Those who arrive during the implementation period will be able to reside on the same terms as those currently in the UK, although must register if residing for over 3 months.

• All EU citizens and their family members who have lived in the UK lawfully for 5 years will need to apply for “settled” status – even those who already have permanent residence.

• Those who have not completed 5 years residence for settled status at the specified date will be able to apply for temporary residence in the UK to complete their 5 year period.
What does settled status mean?

- The right to live in the UK, unhindered by conditions or time limit.
- The same rights to live, work and access benefits and health care as British Nationals.
- It is likely that you will be able to naturalise as a British Citizen after having held settled status for 12 months.
How will I secure settled status?

• You will need to evidence your identity, 5 years’ continuous lawful residence and declare any criminal convictions.

• You will not need to account for every trip outside the UK, show any evidence of comprehensive sickness insurance (CSI) or enrol your fingerprints.
How will the application process for settled status work?

• The new process is likely to be an online application, similar to the online residence card and permanent residence card applications.

• Proposal is to have electronic documents (adjustment to data contained in passport chip).

• As this process and the requirements are unknown, EU Citizens may opt to apply for permanent residence under current process, and later switch to settled status. This approach will offer more peace of mind and a more streamlined application for settled status in the future.
Permanent Residence

• An EEA national and their family members automatically attain permanent residence (“PR”) once they have resided in the UK for a continuous period of 5 years (“qualifying period”) in accordance with the Immigration (EEA) Regulations 2006.

• For an EEA national, residing in accordance with the Regulations generally means being a **Qualified Person**.

• A **Qualified Person** is one of the following:
  • a jobseeker;
  • a worker;
  • a self-employed person;
  • a self-sufficient person with comprehensive sickness insurance; or
  • a student with comprehensive sickness insurance.
EEA example:

Spain

Permanent residence
- no restrictions

5 years’ residence
- doing qualifying activities

Initial 3 months’ residence
- no restrictions
What does continuous mean?

• **Continuous residence** is not broken by;
  • Periods of absence of up to 6 months in any year of the 5 year qualifying period;
  • Absence due to military service; or
  • One absence, not exceeding 12 months for an important reason, such as pregnancy/childbirth, serious illness, study or training or an overseas posting.

• **Permitted absences** for PR are more generous than for naturalisation.
Comprehensive Sickness Insurance

- Required by students (transitional arrangements before 20 June 2011) and self sufficient people.
- Not required if also a worker, job seeker or self-employed person.
- If required and not held, residence will not be “in accordance with the Regulations” and will not count for PR purposes.
- Family members must also be covered.

What is Comprehensive Sickness Insurance ("CSI")?

- A private health insurance policy which covers everything that one would expect a reasonably complete policy to cover;
- An EHIC card plus a declaration on temporary stay; or
- A reciprocal arrangement with home country evidenced with form S1, S2 or S3; but
- Access to the NHS is not the equivalent of CSI.
How do I apply?

• Since 1 February 2017 forms are mandatory; **EEA (PR)**
• Home Office fee is £65 per applicant.
• May use paper or online form, then post to Home Office for consideration.
• Can only use the Same Day Service if applying for 5 year reg. cert as a qualified EEA national, not for permanent residence.

**Online application:**
https://visas-immigration.service.gov.uk/product/eea-pr
• Straight forward; approximately 20 minutes.
• Can use European Passport Return Service.
• Can be used by EEA national and non-EEA family members.
• Cannot be used for complex matters or by a family member applying at a different time to main EEA national.
Do I need to submit my original passport?

- You may submit your original passport or ID card or use the European Passport Return Service (Reg cert and PR only) [https://www.gov.uk/government/collections/european-passport-return-service](https://www.gov.uk/government/collections/european-passport-return-service)
- Exception to requirement to provide ID document if passport/ID card is not available “for reasons beyond your control”.
- May travel outside the UK during consideration period.
What documents should I submit?

• Guidance issued in April 2017 has relaxed the documentary requirements;
  – ID – passport/ID/EPRS plus two passport photographs.
  – Evidence of relationship to family members.
  – Only require evidence of Treaty Rights and residence from chosen 5 year qualifying period.
  – Demonstrate PR has not been lost with absence of 2 years following qualifying period.
  – If employed, P60s for each year will evidence employment and residence, or rely on 3 payslips (inc March) or letter from employer.
  – If not employed, evidence of studies, self emp., self sufficiency and/or job seeking plus evidence of residence and CSI if required.
  – Only require one item of evidence of residence for each 12 month period.
Do I need to list all my absences?

- On the online application, only those longer than or totalling six months in any year.

- Only those during the qualifying period, do not list any absences before qualifying period.

- Demonstrate that PR has not been lost with an absence of longer than 2 years after the qualifying period.
How long will my application take?

- An application by an EEA national must be granted as soon as possible. An application for a family member must be granted within 6 months of application.
- Currently taking 1-2 months
End of period
31 December 2020

Pre-Brexit
5 years’ residence

New immigration system

Apply for permanent residence or settled status – voluntary

Apply for settled status – mandatory
30 June 2021

New application route open …

OVERSTAYING

Brexit
End of period
29 March 2019
31 December 2020
End of period 31 December 2020

Must apply for settled status – mandatory 30 June 2021

Cannot apply for permanent residence or settled status

May apply for settled status

New immigration system


Implementation period

New application route open ...

4 years' residence

1 year

OVERSTAYING

Brexit 29 March 2019

End of period 31 December 2020

Cannot apply for permanent residence or settled status

May apply for settled status

New immigration system

2019 2020 2021 2022 2023 2024 2025 2026

Brexit
Must apply for settled status after 5 years residence.

End of period: 31 December 2020

Must apply for a temporary residence document by 30 June 2021.

Cannot apply for permanent residence or settled status.

New immigration system:

- Pre-Brexit
- Implementation period
- New application route open ...

Brexit: 29 March 2019
End of period: 31 December 2020

British Citizenship

Naturalisation

1. Meets the good character requirement
2. Meets the English language and Life in the UK test requirement
3. Intends to make the UK their permanent home
4. Meets the residence requirements (see below)

Married to a British Citizen
Present in the UK 3 years before app.
No more than 270 days absence in 3 years before app.
No more than 90 days absence in 12 months before app.
Flexibility on absences
No time limit on stay (ILR or PR) on day of app.
No breach of immigration law in 3 years before app.

Not married to a British Citizen
Present in the UK 5 years before app.
No more than 450 days absence in 5 years before app.
No more than 90 days absence in 12 months before app.
Flexibility on absences
No time limit on stay (ILR or PR) for 12 months before app.
No breach of immigration law in 5 years before app.
Practicalities

- Naturalisation form is mandatory; **Form AN** for adults
- £1330 fee per applicant.
- Must be posted to the Home Office for consideration.
- No time limit for consideration and decision; generally take 3 -6 months although subject to recent delay.
- Evidence submitted must be original, save for British spouse’s passport.
- If not married to a British Citizen, the period relied on in the PR application must have ended more than 12 months ago. The PR card can have been granted more recently. The Home Office should record the date of acquisition of PR. Check letter granting PR.
QUESTIONS?
Contact

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