**Right to work checks and applying for settled status following Brexit**

The current position that EU nationals have the automatic right to live and work in the UK will change as a result of the UK’s decision to leave the EU.

This will mean that some employees will need to apply for “settled status” to evidence their ongoing right to live and work in the UK. This guidance gives an overview of the EU Settlement Scheme and the checks employers must carry out when recruiting EU citizens following Brexit. This is not intended to be exhaustive guidance and employees should seek their own advice on obtaining settled status.

**Right to work checks until the end of 2020**

Current right to work checks apply until the end of 2020. There will be no change to the rights and status of EU Citizens living in the UK until 2021.

Even if there is a no-deal Brexit in March 2019, the immigration minister has now confirmed that no additional right to work checks on EU citizens will be required. Any employers offering jobs to EU nationals post-Brexit will be expected to ensure they are eligible to work in the UK (using the current right to work checks). There will be no need for employers to differentiate between recent arrivals in the UK and settled residents when carrying out such checks.

**What is the EU Settlement Scheme?**

If EU citizens want to stay in the UK beyond 31 December 2020, they and their family members will need to apply to the EU Settlement Scheme (“the Scheme”).

The Scheme will allow the EU citizen and their family members to continue to live and work in the UK. It will mean they are eligible for:

• public services, such as healthcare and schools;

• public funds and pensions; and

• British citizenship, if they want to apply and meet the requirements.

**Who needs to apply?**

EU citizens from all member states can apply. They will not need to apply if:

* They are an Irish citizen
* They have indefinite leave to remain in the UK
* They have indefinite leave to enter the UK - for example, they have a [Returning Resident visa](https://www.gov.uk/returning-resident-visa)

However, all family members from outside the UK and Ireland will need to apply. Rights for citizens of Norway, Iceland, Liechtenstein and Switzerland are still being negotiated.

**Eligibility for settled status**

To be eligible for settled status, the individual will usually need to:

* be an EU citizen, or a family member of an EU citizen
* have been living in the UK continuously for 5 years (‘continuous residence’)
* have started living in the UK by 31 December 2020

If they have lived in the UK for less than 5 years, they will generally be eligible for ‘pre-settled status’ instead.

They will need to apply even if they are an EU citizen married to a British citizen. Further details on eligibility are available from: <https://www.gov.uk/settled-status-eu-citizens-families/eligibility>

**Timescales**

The Scheme will be phased in later this year, and will gradually open more widely until it is fully open by the end of March 2019.

Residents from EU member states have a deadline to apply for “settled status” which will then prove their right to remain and work in the UK. Those who are resident in the UK by 31 December 2020 will have until **30 June 2021** to make an application. Their rights will remain unchanged until then, provided that they were resident in the UK by 31 December 2020.

It is estimated that 3.5 million people will need to go through this process once it has been fully opened (which is due by March 2019). It may therefore be advisable to apply as early as possible.

**Employer responsibilities**

Although there is no legal obligation to communicate information about the Scheme to employees, employers may wish to notify employees about the Scheme and provide them with the relevant information. The Government have issued a toolkit for employers. This includes leaflets and briefing guides for informing employees about the Scheme.

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

Employees who need to apply will find checklists of the documents they will need to produce and the process in the applicant leaflets:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728676/Leaflet_2_-_How_Do_I_Apply.PDF>

**Fees for the Scheme**

Employers are not expected to pay or support the cost of the Scheme although if they wish to do so they can. The cost for applying under the scheme will be £65 for those aged 16 or over (£32.50 for children under 16).

It will be free to apply if:

* The EU citizen already has valid indefinite leave to remain in the UK or a valid permanent residence document (see below)
* Applying to move from pre-settled status to settled status

**Evidence of settled status**

Settled or pre-settled status will mean that the individual has the right to work in the UK. It will also mean they can:

* use the NHS
* enrol in education or continue studying
* access public funds such as benefits and pensions, if you’re eligible for them
* bring family members to the UK after 31 December 2020
* travel in and out of the UK

All successful applicants will get proof of their settled status through an online service. They will not get a physical document.

Once an applicant has been granted settled status, it will remain valid unless they leave the UK for a period of more than 5 years.

## Employees with indefinite leave to remain in or enter the UK

If an employee has indefinite leave to remain they can continue to live and work in the UK without applying for settled status. However, they can apply to change their indefinite leave to settled status (without a fee) if they wish which will mean they can live outside the UK for 5 years\* (rather than 2 years with indefinite leave). They will not have to pay or prove they have 5 years’ continuous residence.

## Employees holding a valid permanent residence document

Any permanent residence document will not be valid after 31 December 2020. Individuals can change their permanent residence document for settled status by applying to the EU Settlement Scheme. They will not have to pay or prove they have 5 years’ continuous residence.

## \*this period is still subject to parliamentary approval and may change.