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# The UK Government's EU Settlement Scheme

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This short briefing explains the roll-out of the EU Settled Status Scheme for EU and EFTA citizens living in the UK after Brexit.



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# Settling in an Uncertain Britain

While there is [ongoing uncertainty](#) around whether and how the UK will exit the European Union, the UK Home Office has for a long time been committed to rolling out its plans for an EU Settlement Scheme on 30 March 2019 (the day after what was to have been 'Brexit Day').

Despite the postponement of Brexit Day, the full roll-out of the Settlement Scheme still commenced on the 30 March 2019. The UK Government has [stated](#) the Scheme will "enable EU citizens to protect the rights they currently have in the UK."

Although it is still unclear what kind of Britain EU citizens will be settling into and what the nature of the future relationship with the EU will be, the largest and most complex migration exercise in UK history has now begun.

# The Nuts and Bolts of the Settlement Scheme

In June 2018, two years after the EU referendum, the UK Government announced its intention to create a [Settlement Scheme](#) (the scheme) for the 3.6 million EU citizens currently resident in the UK.

The UK Government has stated that the scheme is intended to be 'quick and easy' for applicants. All EU citizens living in the UK are obliged to fill in a short application form, either online or via a smartphone app, to (1) verify their identity, (2) confirm their residency and (3) complete a criminality check, to continue living in the UK after Brexit. EFTA citizens (citizens of Switzerland, Norway, Iceland and Liechtenstein) can also apply in the same way as EU citizens, owing to [agreements](#) reached in December 2018.

Various trials of the scheme have already taken place. Preliminary [feedback](#) from the second trial phase on the speed and ease of the process has been broadly positive. Out of 29,987 applications in November-December, 27,211 decisions had been made, with no cases being refused. The results of the third public test phase will be published in a report after 30 March 2019.

# Important dates

The scheme fully opened on 30 March 2019. When it closes will depend on whether the UK leaves the EU with or without a deal.

- If the UK leaves after concluding a Withdrawal Agreement, the scheme will close on 30 June 2021. EU and EFTA citizens moving to the UK before the end of the transition period (the 31 December 2020) may be eligible to apply for pre-settled status.
- If the UK leaves the EU without a deal, the timeframe is shorter, with registration closing on 31 December 2020. There would also be a tighter residency duration, with only EU/EFTA citizens living in the UK by 12 April 2019 being able to apply.

Importantly, if EU and EFTA citizens fail to apply for settlement prior to the relevant deadline (or, in the case of no deal, if they arrive in the UK after the new Brexit Day of 12 April 2019), they risk losing their rights to live in the UK and may have to apply for a visa.

The Government has not stated what will happen to the Settlement Scheme if a decision is made to revoke Article 50 to enable the UK to remain a member of the European Union, or if the UK Parliament opts for a 'softer' Brexit option that retains Single Market membership and the continuation of freedom of movement for EU/EFTA citizens. In these cases, it is likely that the Settlement Scheme would not be compatible with Single Market membership as it places restrictions on freedom of movement and the rights of EU/EFTA citizens.

However, if Article 50 is revoked, the UK Government may decide to retain some aspects of the settlement scheme as part of a simpler 'registration' process of EU/EFTA citizens who have been resident in the UK for longer than 3 months, which is permitted under Single Market rules through the [EU Citizens' Rights Directive](#).

# Who should apply and what are the requirements?

All EU and EFTA citizens living in the UK are required to apply unless they also have British or Irish citizenship, or indefinite leave to enter or remain in the UK (Irish nationals are exempt through the Common Travel Area). Full details regarding eligibility can be found on the Government website [here](#).

EU and EFTA citizens will be able to apply online using any device, including through the UK Government's 'EU Exit: ID Document Check' App for Android phones, which uses facial-recognition and biometric software to scan the applicant's passport and photo.

Applicants will be asked to:

- prove their identity (through a passport or national identity card)
- prove their continuous residence in the UK, that is, that they have lived in the UK for at least 6 months in any 12-month period for five years in a row (through bank statements, employer letters, payslips, council tax bills, mortgage statements)
- whether they have criminal convictions
- their relationship to a family member from the EU living in the UK (if they're from outside the EU).

Applicants' answers will be checked against government databases, such as HMRC, and decisions are due to be made within a short timescale. Applicants will receive an email confirming their status online and will generally not receive a physical document.

The fee to apply for the scheme (£65 for those over 16 and £32.50 for those under 16), has now been scrapped by the UK Government. It has also made a commitment to refund any fees already paid, sometime after 30 March 2019.

# What's the difference between Settled and Pre-Settled Status?

When applicants apply through the scheme, the status they are given depends on how long they've been living in the UK when they apply. There are two statuses: settled (equivalent to indefinite leave to remain) and pre-settled (entitled to stay in the UK for another 5 years).

- To obtain settled status, EU and EFTA citizens and family members must have lived in the UK continuously for at least five years by 31 December 2020 (or by 12 April 2019 if the UK leaves without a Deal).
- To obtain pre-settled status, EU and EFTA citizens and family members must have arrived in the UK by 31 December 2020 (or by 12 April 2019 if the UK leaves without a Deal) but do not have five years' continuous residence.

Pre-settled status means people can seek to stay in the UK until they have accrued 5 years of continuous residence, and can then apply for 'settled status' and continue living in the UK indefinitely. People with settled status may also be able to apply for British citizenship if they are eligible.

# What rights does the EU Settlement Scheme guarantee?

The UK Government has guaranteed that the rights and status of EU and EFTA citizens in the UK will remain the same as under EU free movement rules until 30 June 2021. This means they will have the right to work in the UK, use the NHS, and enrol in education or continue studying. There is not yet complete clarity around access to social security and pensions.

However, after June 2021, these rights will change. For instance, EU and EFTA citizens will lose their local voting rights in the UK (which were guaranteed under free movement) and those with settled status will only be able to spend up to 5 years in a row living outside the UK without losing their status; this is 2 years in a row for those with pre-settled status (no such restrictions existed prior to free movement).

In a No Deal scenario, the UK Government has [indicated](#) that EU citizens' rights will be protected, but that there will be [certain changes](#):

- (a) they will have no right of appeal to the European Court of Justice
- (b) the UK deportation threshold (which is more stringent than the EU equivalent) would replace the EU deportation threshold for any crimes committed after 29 March 2019; and
- (c) there will be a new cut-off date of 29 March 2022 for non-EU family members to join EU citizens in the UK; thereafter they must apply through the applicable UK Immigration Rules.

Likewise, under a No Deal scenario, UK nationals living in the EU [may lose some of their rights](#), such as voting rights and current social [security treatment](#). Both UK and EU/EFTA citizens affected by Brexit are likely to face [continuing uncertainty](#) over their rights until UK-EU negotiations are concluded, which has led to more people applying for citizenship.



# Challenges and Criticisms

The Home Office says that the Settlement Scheme will be generous and user-friendly, with case-workers “[looking to grant status, not for reasons to refuse](#)”.

However, the Settled Status scheme [has been criticised](#) by a number of organisations. For instance, the 3 Million Campaign has [described](#) the scheme as a ‘ticking time bomb’ due to the inaccessibility of the online application process and the potential number of people who are unable to apply. A [report by British Future](#) found that even a 5% rejection rate would leave as many as 175,000 EU/EFTA citizens living in the UK undocumented. The UK Parliament Joint Committee on Human Rights also [criticised](#) the scheme for removing people's rights, lacking physical proof of registration (which caused major problems for the Windrush generation) and for relying on individuals “knowing that they have to apply to the scheme – and if they do not, they risk losing their current status and associated rights”.

The principal criticisms can be summarised as follows:

1. Certain groups of people may be unable to complete their applications or be unaware of the need to apply, and thus be at risk of losing their rights to live in the UK. This includes: older people, children (especially children in care), women (especially stay-at-home mothers), unemployed people, people who believe they are ineligible or are unaware of the scheme, and people who would find submitting an application difficult due to language, age, disability or digital literacy.
2. There are technological hurdles to applying, such as lack of access to a compatible smartphone and the required software.
3. There are doubts whether the Home Office has the capacity to process millions of applications in a relatively short time period, despite increasing Settlement Scheme staff numbers to over 1500.
4. There is a concern about the lack of information on what may happen to the rights of EU and EFTA citizens who are not registered before the deadline and the loss of rights for EU/EEA citizens under current proposals, in particular, their housing, social security, electoral and human rights.

## Next Steps

It is clear that a number of obstacles exist to effectively and comprehensively roll out the Settlement Scheme to all eligible EU and EFTA citizens in the next two years. It is vital that the UK Government addresses the risks that the most vulnerable EU and EFTA citizens will be unaware of the Scheme or unable to complete the registration process. It is also necessary to provide more information on what will happen to the rights of EU and EFTA citizens who do not register, and to create flexibilities within the system to allow for error and to protect the rights of EU and EFTA citizens living in the UK, regardless of their application.

The UK Parliament Committee on Human Rights has [suggested](#) that the rights “should not depend on subsequent registration with a scheme within a specific time limit.” Time will tell – in the course of the roll-out of, and anticipated widespread feedback on, the Scheme – if the Government decides that it needs to change track yet again to find simpler and less contentious ways to guarantee EU and EFTA citizens' rights.

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