

## **EU Settlement Scheme FAQs (updated 4.11.2022)**

### **Who is this guide for?**

- EU nationals (and nationals of Norway, Iceland, Liechtenstein and Switzerland) and their family members
  - Irish nationals do not have to apply to the EU Settlement Scheme (although they can if they wish to). Irish citizens have a right of residence in the UK which is not reliant on the UK being a member of the EU.
  - Please note that the rules for family members of people from Northern Ireland differ from those for Irish and other EU nationals as referred to below.

### **What is the EU Settlement Scheme (EUSS)?**

- In accordance with UK's obligations set out in the Withdrawal Agreement governing the terms of its departure from the EU, the UK government introduced the EUSS to safeguard and regularise the immigration status of EU nationals and their family members from 31 December 2020, the date on which the UK left the EU.
- Under the EUSS, EU nationals living in the UK on or before 31 December 2020 and their family members were entitled to make applications for either temporary or indefinite leave to remain in the UK. These are called applications for pre-settled and settled status.
- Appendix EU to the Immigration Rules, which sets out the way in which the EUSS works, replaced all EU laws regulating the freedom of movement for EU nationals and their families in the UK.

### **I have existing leave to remain in the UK on the basis of my EEA free movement rights – do I need to apply to the EUSS?**

- EU Nationals who held indefinite leave to remain the UK before 31 December 2020 were not required to apply to the EUSS.
- EU Nationals who had acquired permanent residence in the UK before 31 December 2020 but who did not have indefinite leave to remain were required to apply to the EUSS for settled status in order to maintain their right to live in the UK.

### *How do I know if I have Permanent Residence or Indefinite Leave to Remain?*

- Permanent residence is the term used for EU nationals and their family who have lived in the UK for at least 5 years where the EU national has been a 'qualified person' throughout that time. A qualified person is someone who has been working, studying, self-employed, self sufficient or a job seeker.
- Permanent residence is something that is acquired rather than applied for but some EU nationals and their families applied to the Home Office (UK Visas and Immigration) for confirmation of permanent residence so that they could easily prove their immigration status.
- If you have permanent residence you still need to apply for settled status.
- Indefinite leave to remain is a type of leave given under the Immigration Rules. If you have indefinite leave to remain there is no time limit on your stay in the UK. A grant of indefinite leave to remain has to be applied for, it is not acquired. If you have been granted indefinite leave to remain you will have either a stamp in your passport, a paper document confirming your status or a biometric residence permit. If you have indefinite leave to remain you do not need to apply for settled status.

## Who is entitled to pre-settled and settled status?

### *Pre-settled status*

- EU nationals who were living in the UK for a continuous period of less than 5 years before 31 December 2020 were entitled to apply for pre-settled status up to the deadline for applications of 30 June 2021. In some cases, applications for pre-settled status can still be made by eligible EU nationals who lived in the UK before 31 December 2020 (please see below under “**Late applications**”).
- Family members of EU nationals who had been living in the UK with their EU family members for less than 5 years on or before 31 December 2020 were also entitled to apply. In some cases, applications for pre-settled status can still be made by eligible family members of EU nationals who lived in the UK before 31 December 2020 (please see below under “**Late applications**”). Some family members who have not previously lived in the UK are still eligible to apply (please see below under “**Joining family members**”).

### *Settled status*

- EU nationals and their family members who were living in the UK for a continuous period of 5 years or more on or before 31 December 2020 were eligible to apply for settled status (indefinite leave to remain).
- Some family members who have not previously lived in the UK are still eligible to apply (please see below under “**Joining family members**”).
- EU nationals and their family members who have been granted pre-settled status in the UK will be eligible to apply for settled status when their period of leave expires or when they have been lawfully resident in the UK for a period of 5 years (whichever is sooner). EU Nationals and their family members who wish to remain in the UK after their period of pre-settled status expires **must** make an application for settled status before their leave expires.

## **The deadline for EUSS applications has passed but I am eligible. Can I still make an application?**

Yes, in some circumstances you can. A late application can be made to the EUSS where there are “reasonable grounds” for not having applied in time. The Home Office has not specifically defined what “reasonable grounds” are but they include circumstances where an applicant was not aware of the deadline or where they are digitally excluded or a child. As things stand, the Home Office has been generous in accepting late applications but if you are eligible and you have not yet applied, you should do so as soon as possible.

## **Joining family members - can my family members still apply to the EU Settlement Scheme for permission to live with me in the UK?**

Yes, if you have a close family member living outside the UK they can make an application under Appendix EU to join you here if your relationship began before 31 December 2020. They can apply for an EUSS Family Permit if they are non-EU nationals and directly for pre-settled status if they are EU nationals.

Close family members are:

- Spouses (if you were married before 31 December 2020);
- Durable partners (a partner who you have co-habited with for 2 years before 31 December 2020);

- Children under the age of 21;
- Dependent children over the age of 21 where they have been continuously financially dependent on you since before 30 December 2020;
- Dependent parent, grandparent or great-grandparent.

If your family member is granted a Family Permit, they will need to apply for pre-settled status within 3 months of their arrival in the UK if they wish to remain for longer than the 6 months permitted leave.

If your close family member is in the UK on another visa (for example, a student visa), they can apply for pre-settled status as your family member within 3 months of their existing visa expiring.

Extended family members (for example, other dependent relatives and durable partners where the 2 years cohabitation postdates 31 December 2020) can no longer apply to join you in the UK under Appendix EU unless they made an application for a EEA Residence Permit before 31 December 2020 and that application has not yet been decided.

If you are from Northern Ireland, your extended family members may still be able to apply to join you in the UK if they are financially dependent on you.

If you have a baby while you are in the UK, you will need to make an application for pre-settled status for them within 3 months of their birth. If you have a baby outside the UK, you will need to make an application for them as a joining family member before you intend to return.

### **Once I've been granted status under the EUSS can I stay in the UK forever?**

If you (and/or your family members) have been given 'settled status', this is the same as Indefinite Leave to Remain. Simply put, it means there are no time restrictions on your stay in the UK. You will not have to make any further immigration applications, unless you decide to apply to naturalise as a British citizen.

If you and/or your family members have been in the UK less than 5 years have been given 'pre-settled status' you will be eligible to make an application for settled status when you have lived lawfully in the UK for 5 years. You must make an application for settled status before your pre-settled status expires.

There are circumstances where your status (both settled and pre-settled) may lapse:

- If you are absent from the UK for more than 5 years after being granted settled status, you will lose your status
- If you are absent from the UK for more than 2 years after being granted pre-settled status, you will lose your status and you will not be eligible to apply for settled status.
- If you have pre-settled status and you are outside the UK for more than 6 months in any 12 month period (without a good reason, such as a medical reason or having to carry out vocational training abroad), you will not lose your pre-settled status but you will not be eligible to apply for settled status when your pre-settled status expires. You will not be able to make a further application for pre-settled status.

### **I don't have a document confirming my settled/pre-settled status. How do I prove it?**

Status under the EUSS is digital only and can be accessed via your online account with UK Visas and Immigration. Your status under the EUSS will be linked to your passport or

National ID document (whichever you applied with) and it will register automatically when you travel in and out of the UK.

If you replace or renew your passport/ID document, you should update the Home Office with the new number. You can do this by logging into <https://www.gov.uk/update-uk-visas-immigration-account-details>

You should also update your details if your mobile phone number or email address change as any notifications about your status, and share code details will be sent to either your phone number or email address. This can be done using the website above.

If you need to prove your immigration status to anyone else, you can allow them access to your online status by generating a share code for them. You can do this by logging into <https://www.gov.uk/view-prove-immigration-status>

A code will then be generated which will enable them to see your status but they will also need to know your date of birth to be able log in.

**I have applied to the EUSS from outside the UK and I have a Certificate of Application. Can I travel to the UK?**

You should be able to travel to the UK as a visitor with your Certificate of Application while a decision is pending on your application. You should take a copy of it with you when you travel, and any other documents you have confirming your eligibility to be granted status under the EUSS (for example, evidence of your relationship to your EU National family member). If you do not take these documents with you and Border Control do not accept that you are entering the UK as a visitor, you may be refused entry.

If you have a pending Family Permit application, you should not travel to the UK until it is granted.