



THE AIRE CENTRE

Advice on Individual Rights in Europe



What happens if the UK leaves the EU with 'no deal'?

Until the new immigration bill is brought into law, EU free movement will continue to be apply and EEA nationals and their family members will therefore be able to freely enter and continue to reside in the UK in accordance with their rights under the Treaty, Citizens Rights Directive and Immigration (EEA) Regulations 2016. EEA nationals will be able to prove their rights by showing their passport and ID documents, and the UK government has confirmed that this will be applicable until 1 January 2021 and irrespective of when the EEA national arrived in the UK.

The UK government has developed the EU Settlement Scheme which will protect the rights of EEA nationals and their family members to reside, work, study etc. in the UK after Brexit. Brief description of this scheme can be found in our information note on [*Right to reside in the UK after Brexit*]

In the event of a 'no deal', the EU Settlement Scheme will only protect the rights of those EEA citizens that have been living in the UK by exit day. EEA nationals arriving in the UK after exit day will therefore be subject to a new temporary leave scheme– for more information on this scheme see our information note on [*Right to reside in the UK after Brexit*].

Will the EU Settlement Scheme still apply even if there is 'no deal'?

Yes, even if there is no deal, the EU Settlement Scheme will apply to EEA nationals and their family members who are already present in the UK before the exit date

In respect of EEA nationals and their family members who are not in the UK before the exit date, please see our information note on [*I am not residing in the UK at the moment-can I and my family come to and reside in the UK after Brexit?*]

Will the EU Settlement Scheme be any different in the event of a 'no deal'?

Yes, there are some minor changes to the EU Settlement Scheme if no deal with the EU is reached.

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- (A) There will be no implementation period, which means that the scheme will only apply to EEA citizens and their family members living in the UK by exit day (rather than 31 December 2020) and the application will only be open until 31 December 2020 (rather than 30 June 2021).
- (B) The rules relating to deportation will apply differently, with the UK deportation threshold (rather than EU deportation threshold, which is higher) applicable to crimes committed after exit day.
- (C) Close family members of EEA nationals with settled status will be able to join them by 29 March 2022, provided that the relationship existed by exit day and continued to exist when the family member applied. After 29 March 2022 the regular UK Immigration Rules will apply.
- (D) Where the relationship was established after exit day, EEA citizens with settled status will be able to be joined by their spouse or partner and other dependent relatives by 31 December 2020. After that date, regular UK Immigration Rules will apply.
- (E) It will not be possible to appeal a decision refusing settled or pre-settled status to the First-Tier Tribunal. EU nationals will only be able to bring a judicial review, which is limited to reviewing an error of law.
- (F) There may also be additional changes to frontier workers (i.e. people who regularly travel to and from the UK for employment) who may have to apply for a separate status, and to EU nationals travelling to the UK with just their national identity cards who may not be able to do so after 1 January 2021.

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