



Rights of EU Citizens in Wales

EU Citizens and Their Right to Work

This factsheet provides a brief summary of an EU citizen's rights to work in Wales. In this factsheet, 'EU citizens' includes citizens of the EU member states, as well as citizens of the EEA states (Norway, Iceland and Liechtenstein), and citizens of Switzerland.

This factsheet also covers the rights of family members who are not themselves EU citizens, and whose right to live in the UK is derived from their relationship with an EU citizen or British Citizen who has exercised free movement rights as a worker, self-employed person, self-sufficient person or student in an EEA host country immediately before returning to the UK¹.

EU citizens and their family members who were living in the UK on 31 December 2020 and who wish to stay in Wales, should have applied to the EU Settlement Scheme (EUSS) for either Settled Status (indefinite leave to remain) or Pre-Settled Status (limited leave to remain for 5 years). Irish citizens and people with indefinite leave to remain did not have to apply. EU citizens and their family members who did not apply to the EUSS or have an expired pre-settled status can still apply if you're eligible and can show 'reasonable grounds' for why you could not apply by the deadline or in the time since the deadline passed.

EU citizens who arrived in the UK for the first time, on or after 1 January 2021, cannot apply for Settled Status or Pre-Settled Status. They arrive as 'Short Term Visitors'. If they wish to remain for more than a short visit of up to six months, they must apply for an alternative long term Visa (for example, to study, or work, or join a family member). Further information on long term visas can be found at: [Browse: Work in the UK – GOV.UK \(www.gov.uk\)](https://www.gov.uk/browse/work). Non-EU family members of EU citizens can now only enter the UK if they already have an EUSS family permit. UK EEA family permit and UK biometric residence card are no longer valid in the UK.

Citizens that have a biometric residence card (BRC) and have been granted status under the EU Settlement Scheme will now have an eVisa.

An eVisa is an online record of someone's immigration status and the conditions of their permission to enter or stay in the UK, it also allows an individual to share their immigration with third parties when required.

¹ 'Family members' can include: your spouse or civil partner, your children, grandchildren and great-grandchildren under age 21, your dependent children over age 21, your dependent parents, grandparents and great-grandparents, and some unmarried partners and other dependent relatives (where the Home Office has issued an 'extended family member' registration certificate).

EU Citizens who have Settled Status or Pre-Settled Status

All EU citizens and their family members with Settled Status or Pre-Settled Status have the right to work in Wales. Those who applied to the EUSS (even after the deadline) and are awaiting a decision also retain the right to work until they are granted Settled Status or Pre-Settled Status (or until they are no longer able to appeal a refusal of their application). Their right to work is not linked to a particular employer or a particular job or role. EU Citizens with a status or pending outcome have the right to equal treatment with British workers in access to employment, working conditions and all other social and tax advantages related to work (for example, access to work-related benefits and pensions). EU Citizens who have Settled Status have the right to work in Wales (and across the UK) indefinitely. EU citizens with Pre-Settled Status are allowed to work in Wales and across the UK until their Pre-Settled Status expires. They can apply for Settled Status after living in the UK for five years.

Those who are awaiting an outcome should also be treated equally and fairly until they receive an outcome and then they should be treated in accordance to the outcome they receive. Those that have applied will be granted with a certificate of application and employers can verify status with the home office.

EU Citizens who were living in the UK on 31 December 2020 and have not applied to the EUSS

EU citizens no longer have leave to remain in the UK and are therefore, without an immigration status, restricted from working in Wales. EU citizens and their family members who did not apply to the EUSS status can still apply if you're eligible and can show 'reasonable grounds' for why you could not apply by the deadline or in the time since the deadline passed. Those that now wish to apply to remain in the UK, you should seek urgent legal advice (details of the support available is provided at the end of this factsheet).

Employers are not responsible for making sure your employees have applied to the scheme and do not need to undertake retrospective right to work checks on individuals who were employed on or before 30 June 2021.

There may be situations in which you identify someone in your workforce who has not applied to the EUSS and does not hold any other form of leave in the UK.

The employer right to work checks supporting guidance (links at the end of this document) explains what to do if this happens. The employer should advise the employee that they must make an application within 28 days of notice.

EU Citizens who arrived on or after 1 January 2021 for the first time

Short Term Visitors (visits lasting less than 6 months)

EU citizens arriving as Short Term Visitors, may be treated as Business Visitors and are permitted to attend business meetings, events and conferences but cannot:

- do paid or unpaid work for a UK company
- work as a self-employed person
- do a work placement or internship
- sell goods and services directly to the public.

Long Term Visa Holders

EU citizens and their family members wishing to work in the UK must apply for a Long Term Visa. In most cases, if granted, they will have the right to live in the UK and work, normally for a specific employer, in a particular job or role. If they wish to switch employers, or jobs or roles, they may need to seek a change to the terms of their Visa or reapply for another Long Term Visa.

Proof of right to work

EU citizens can prove their right to work by showing proof that they hold Settled Status or Pre-Settled Status or another form of leave to remain (such as a Long Term Visa). If they have made a valid application under the EUSS but their application has not yet been decided, they can also provide evidence of their application (certificate of application) as proof of their right to remain and continue working in Wales. A certificate of application typically lasts 6 months but to note in some instances outcomes are taken longer to be granted.

EU Citizens that no longer have a valid certification of application must now obtain a “share code” which is available via the UK government website ([View and prove your immigration status – GOV.UK \(www.gov.uk\)](https://www.gov.uk)) to prove their right to work in the UK.

Self-Employment

To register as self-employed an EU citizen must have a National Insurance Number. EU Citizens can apply for a National Insurance number if they live in the UK and have the right to work in the UK i.e. have pre-settled or settled status.

Changes to third party checks and checking services for pre-settled status holders

The Home Office has announced that it will be removing the pre-settled status expiry date from the digital profiles shown to third parties in the online checking services for Right to Work, Right to Rent (not applicable to Welsh residents) and View and Prove. Employers, landlords and letting agents will only be required to carry out one, initial, check will no longer be required to conduct a further right to work or rent check where the individual remains in their employment or as part of that tenancy agreement.

Relevant guidance will be updated to reflect these changes.

What do third parties checking status have to do now?

- Employers and landlords must continue to check the person they are employing or renting to has the right to work or rent in the UK. These checks are carried out on all nationalities.
- Where the individual holds pre-settled status, the employer or landlord/letting agent can confirm their right to work or rent by using the Home Office online checking service.
- Having completed the initial right to work or rent check, a further follow-up check during the course of employment or a tenancy will not be required.
- Licensing authorities carrying out “right to a licence checks” in accordance with the guidance for licensing authorities to prevent illegal working in the taxi and private hire vehicle sector will no longer be required to carry out repeat checks where a holder of pre-settled status applies to extend or renew an existing licence. Licensing authorities should retain copies of checks carried out when the licence is applied for.
- These changes will be reflected on the screens of the Right to Work, Right to Rent and View and Prove checking services.
- Relevant guidance will also be updated to reflect these changes.

How will this work for pre-settled status holders?

- Pre-settled status holders do not have to take any action as a result of these changes.

Changing the duration of the pre-settled status extension to 5 years

The Home Office will increase the length of pre-settled status extensions from 2 to 5 years. This will provide additional assurance to pre-settled status holders of their continuing rights, in light of the judgment.

This will not impact anyone who already has settled status or has since become a British citizen.

How will this work for pre-settled status holders?

- Pre-settled status holders do not need to take any action as a result of this change.
- The extension will be reflected in their digital status and the Home Office will contact them directly to let them know this has been done. They do not need to contact the Home Office.
- We continue to encourage EEA citizens and their family members to apply for settled status under the EUSS as soon as they're eligible, to obtain secure confirmation of their right to remain permanently in the UK. You can apply to switch to settled status free of charge at www.gov.uk/settled-status-eu-citizens-families/applying-for-settled-status. A wide range of help and support is available for applicants who need it.

Automatic upgrade to Settled Status

Beginning in 2025, the Home Office will automatically start to upgrade eligible pre-settled status holders to settled status without requiring them to apply. Eligibility will be assessed using data from government bodies like the Department for Work and Pensions and HMRC. If the Home Office cannot automatically upgrade an individual's status, they will inform the resident, requesting a manual application with evidence of five years of residency. However, those with pre-settled status who have lived in the UK continuously for at least five years may still choose to apply for settled status in advance.

Additional Information and support

Settled

Help – Settled

From the UK, call 0300 123 7379. Monday to Friday (excluding bank holidays): 8am to 8pm. Saturday and Sunday: 9:30am to 4:30pm.

From outside the UK, call +44 (0)203 080 0010. Monday to Friday (excluding bank holidays): 8am to 8pm. Saturday and Sunday: 9:30am to 4:30pm.

Useful Links

I need help with Settled Status – Settled www.settled.org.uk/en/help/

Citizens' rights have changed | the3million www.the3million.org.uk/rights-have-changed

Homepage – Independent Monitoring Authority for the Citizens' Rights Agreements
www.ima-citizensrights.org.uk

EU Settlement Scheme: information for late applicants – GOV.UK
www.gov.uk/government/publications/eu-settlement-scheme-information-for-late-applicants/eu-settlement-scheme-information-for-late-applicants

EU Settlement Scheme caseworker guidance – GOV.UK
www.gov.uk/government/publications/eu-settlement-scheme-caseworker-guidance

EU citizens – we want you to stay in Wales – GOV.WALES
www.gov.wales/preparing-wales/eu-citizens

EU Settlement Scheme: employer toolkit – GOV.UK (www.gov.uk)
www.gov.uk/government/collections/eu-settlement-scheme-employer-toolkit

The UK's points-based immigration system: information for EU citizens – GOV.UK (www.gov.uk)
www.gov.uk/guidance/the-uks-points-based-immigration-system-information-for-eu-citizens

Immigration – Citizens Advice www.citizensadvice.org.uk/wales/immigration/

Right to work checks: an employer's guide – GOV.UK (www.gov.uk)
www.gov.uk/government/publications/right-to-work-checks-employers-guide

Frequently Asked Questions Regarding the Employment of EU Citizens

Can UK companies and organisations still hire EU Citizens?

Yes, and they will need to make their own checks of right to work by asking the person for a share code and checking this using the view and prove service.

Prove your right to work to an employer – GOV.UK (www.gov.uk)

View a job applicant's right to work details – GOV.UK (www.gov.uk)

You should not discriminate when conducting right to work checks. The Home Office has published **statutory codes of practice** for employers on how to avoid unlawful discrimination when undertaking checks. It clearly stipulates that employers should provide individuals with every opportunity to demonstrate their right to work and should not discriminate on the basis of race or any of the other protected characteristics.

Can I employ someone without Settled Status?

If someone has made an application to the EUSS but have not yet received a decision they can show you a Certificate of Application which proves they have applied but does not give you an indication of the outcome of their application.

Can I ask existing employees for proof of right to work in the UK?

You do not need to undertake retrospective right to work checks on EU citizens who were employed on or before 30 June 2021. However, some employers may wish to conduct retrospective checks to ensure the stability of their workforce. If you choose to carry out retrospective checks, you must ensure that you do so in a non-discriminatory manner.

Why doesn't the employee passport not show evidence of Settled Status?

Settled Status is a digital only scheme and proof of the persons status can no longer be shown on a passport as it would previously with other immigration status.

Does Pre-Settled Status mean my employee could lose their right to work and or live in the UK?

Pre-Settled Status means the person has not been in resident in the UK for over 5 years – The person will be able to apply for Settled Status as soon as they have been resident in the UK for over five years.

Will employees with Settled Status have the same workplace rights as other employees?

Yes and treating them differently may be classed as discrimination and you could be subject to the employee bringing action against you.