

IRMO Briefing: EU Citizens Rights in the UK

This document provides an update on the statement made by IRMO on 29 June

While little has changed according to the Government's most recent publications on EU citizens' rights negotiations in the context of Brexit, IRMO would like to highlight a new decision that has been reached regarding health care. Reciprocal health care rights will be protected, including European Health Insurance Cards (EHICs), for EU citizens in the UK and UK nationals in the EU who are present on the day of exit.

The main points of the Government's proposal to date are:

1. EU citizens currently residing in the UK can apply for 'settled status', which is the same as the current 'permanent residence', if you have been legally resident in the UK for a continuous period of 5 years or more. It is unclear if EU citizens who leave the UK to work abroad for a period will still have the right to apply for 'settled status'. The application process will be much simpler than it is currently. Those with 'settled status' will have the same rights to health, pensions, benefits, education etc. as a UK national. Currently, the Government is saying that even the 150,000 people who have successfully applied for permanent residence will have to apply again through new the 'settled status' procedure. It is anticipated that this will be available in 2018. People will no longer have to show evidence of comprehensive sickness insurance.
2. The Government has said there will be a cut-off date somewhere between March 2017, when the process of leaving the EU began, and March 2019, when the UK is expected to leave the EU. This creates uncertainty for many. IRMO and the EU Commission think that EU citizens in the UK should retain the full rights that they currently have until the day the UK leaves the EU. The Government is proposing that if (1) EU citizens are here before the cut-off date and have five years residence in the UK, (2) or if EU citizens are here before the cut-off date and have less than five years residence in the UK, they will be guaranteed 'settled status' (in the latter case they will be able to stay on a temporary basis and build up the 5 years needed). However, individuals that arrive(d) in the UK after the cut-off date will need to meet the new requirements and are not guaranteed 'settled status'.

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3. After the UK leaves the EU (forecast for March 2019), there will be a 2 year 'grace period', where EU citizens resident in the UK at the time will have to apply for a leave to remain (either settled status or a temporary residence permit).
4. The EU is insisting that the European Court of Justice (ECJ) be the court which deals with disputes between EU citizens in the UK and the authorities about their residency status. The UK Government is adamant that the UK courts will handle these disputes with no role for the ECJ. This is a serious obstacle to any agreement being reached.
5. EU citizens with 'settled status' will have the same rights as British citizens to bring family members into the UK. However, UK nationals bringing in family members from outside the UK have to meet the minimum income threshold of £18,600 as well as other requirements and fees that the EU Law doesn't currently demand. This harsh immigration rule does not currently apply to EU citizens. This move represents another reduction in EU citizens' rights.
6. EU citizens with settled status will be able to send child benefit payments to another EU country. But on healthcare arrangements the Government says that it will 'seek to protect' current reciprocal arrangements for those resident in the UK before the cut-off date, and that it will 'seek to ensure' that UK professional qualifications continue to be recognised across the EU.

It is important to make clear that the above points represent the UK Government's opening position in a negotiation with the EU. The EU has already outlined a much better offer for EU and British citizens living in other EU countries (published on 12th June), so the conditions outlined above are likely to change.

In addition, unless the UK makes a unilateral decision to grant rights to EU citizens, the outcome will not be agreed and implemented until the end of the negotiations in a couple of years' time. For all EU citizens resident in the UK today, and for those arriving before the day that the UK leaves the EU, their rights remain the same.

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