



Brexit - What EU citizens living in the UK need to know

Article 50 has been triggered and the UK is due to leave the European Union on 29 March 2019.

But we still don't know any more about the future status of EU citizens living in the UK than we did the day after the referendum last year.

We hope that the negotiations between the UK and the EU will produce clarity soon. In the meantime EU citizens who have made the UK their home want to know what they should be doing.

Have I lost my right to live in the UK?

No. The outcome of the referendum and the triggering of Article 50 have not changed the free movement rights of EU citizens. We are now in a two-year period during which the terms of the UK's departure will be negotiated. Until the UK actually leaves, EU citizens are allowed to continue to travel to, live and work in the UK.

How can I confirm my right of residence in the UK?

EU citizens living in the UK are not required to apply for an official document confirming their status. But because of the uncertainty about what will happen after Brexit it's a good idea to apply to the Home Office for a document if you qualify for one, in case you ever have to prove your status in future.

If you have lived in the UK for less than five years and you are employed, self-employed, studying or self-sufficient, you and your family members can apply for a registration certificate.

If you have completed a continuous period of five years in the UK as someone who is employed, self-employed, studying or self-sufficient you can apply for a document certifying permanent residence. Absences from the UK of up to six months per year do not break this continuous period. An absence of up to 12 months is allowed for important reasons such as pregnancy or childbirth, serious illness, study or an overseas posting.

The date on which you completed the five-year period doesn't matter as long as you have not been outside the UK for a period of more than two years after completing the five-year period.

These documents don't generally confer any rights but you can use them to show that the Home Office has recognised your right of residence under European law.

Unfortunately, not everyone qualifies for these documents – especially students and self-sufficient people who don't have private health insurance. (Employees and self-employed people don't need private health insurance to get a document.)

What's the point of getting a document?

The British government has said that it expects to allow EU citizens already living in the UK to stay after Brexit – provided that the EU does the same for British citizens living in other EU countries.

One problem is that immediately after Brexit it will be hard for immigration officers, employers and others to tell the difference between EU citizens who already living in the UK and those who have just arrived.

You won't want to have to carry around several years' worth of tax returns and Council Tax bills to be allowed back into the UK after every overseas trip. If you have already obtained a document from the Home Office, your life is likely to be easier after Brexit.

How do I apply?

Start by working out which five-year qualifying period you will rely on. It doesn't have to be the last five years. If you ever have had a period of five years' continuous employment it's usually best to rely on this because it's the most straightforward option.

Read the Home Office guidance to find out what documents you will need to provide. The guidance for permanent residence applications can be downloaded here:

<https://www.gov.uk/government/publications/apply-for-a-document-certifying-permanent-residence-or-permanent-residence-card-form-eea-pr>

The application process has been simplified since the referendum. In most cases it's possible to fill in an online application form which is much easier to use than the infamous 85-page paper form. It's no longer necessary to provide a detailed travel history. The number of supporting documents required has been cut down.

When you submit the online form you have to pay the fee of £65 per person. Then you need to print out the form and send it to the Home Office with your supporting documents. You have to enclose your passport or identity card unless you use a local authority European passport return service.

The processing time is up to six months.

Should I become British?

If you want to completely ensure that you are able to stay in the UK after Brexit, you can apply to become a British citizen after you have held permanent residence for one year.

You have to get a document certifying permanent residence before applying for British citizenship, but you don't necessarily have to wait a year after getting the document.

If you're thinking of applying for British citizenship, you should provide evidence that you completed the five-year qualifying period more than one year ago when you apply for permanent residence. If you do that, the Home Office will backdate the date when it deems you to have acquired permanent residence, so you can potentially apply for British citizenship as soon as you have your document certifying permanent residence.

Before applying, check whether your country of origin permits dual nationality and whether it will impact on your tax position. If you have any family members outside the UK who may want to join you in the UK you should take advice, because becoming British will mean that you cannot rely on EU free movement law to bring them to the UK.

What about my children?

If you have children born in the UK, they may already be British citizens. Children born in the UK on or after 30 April 2006 are automatically British if at least one of their parents completed the five-year qualifying period for permanent residence before they were born.

If you completed the five-year period after they were born, you can apply to register them as British.

There are different rules for children born before 30 April 2006, and different rules again for children born before 2 October 2000.

I'm going to wait and see what happens

You're not alone. You could wait for outcome of the negotiations before deciding what to do. Whatever the outcome, it's likely that after the UK leaves the EU you will have to apply to the Home Office for some sort of document but it's possible that the process will be made simpler than it is at the moment. In the meantime, you would be wise to collect evidence of your residence and activities in the UK.

If you would like to apply for a Home Office document but think you don't qualify for one you should take advice, because you may have other options.

Further information

To find out more about your right of residence in the UK, please contact a member of our immigration team.

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Contact details

For further information on all aspects of UK immigration and nationality law, please contact one of our immigration partners or a member of our team.

You can find full details about Kingsley Napley and our services at our website – please see www.kingsleynapley.co.uk.



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