

# Benefits Bulletin

## EEA Nationals and Benefits...

20<sup>th</sup> January 2021

Issue **2** [2021]

### 1. Introduction...

During the last few months, we have provided information aimed at keeping you abreast of the benefit rights of EEA Nationals (and other such persons - see Note 1 on page 2) as things have unfolded in the wake of Brexit. In doing so we have warned that things could change depending on the introduction of new legislation and/or the development of new case law.



We are now able to confirm the primary and secondary legislation that has been introduced to 'deliver Brexit' - to, so to speak, sever certain ties between the United Kingdom and the European Union whilst making provision for transitional arrangements. We are also able to bring you news of the latest case law development in the *Fratila* judgement (See 4. *Fratila* - Court of Appeal) which may have a significant bearing on many.

Given this information, we are able to present what we believe are the Social Security benefits rights of EEA Nationals (and other such persons - see Note 1 on page 2) living in the United Kingdom who have been granted **SETTLED STATUS** and **PRE-SETTLED STATUS** and the benefit rights of those who still have yet to apply to the European Union Settlement Scheme.

We are also able to bring you information on what we consider to be the Social Security benefit rights of EEA Nationals (and other such persons - see Note 1 on page 2) who are now coming to the United Kingdom.

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We must acknowledge that the information is complex. We must also acknowledge that the information provided is not sufficiently all embracing so as to cover every possible scenario. That is something that is not possible in this type of Benefits Bulletin format.

It is therefore asked that if you are working with someone who is living in Wolverhampton who you feel may be affected by these issues and their Social Security benefit rights are less than clear, that you contact our Specialist Support Team for further information and / or advice. Please see page 12 for details on how to contact the Specialist Support Team.

4.48 million people have applied to the European Union Settlement Scheme. Of these, 55% have been granted Settled Status and 43% have been granted Pre-settled Status. Please see 8. The Numbers for more statistical information.

Put simply, any EEA National (and other such persons - see Note 1 opposite) who was lawfully living in the United Kingdom at 11.00 pm on 31<sup>st</sup> December 2020 (the end of the 'transition period') because they had a 'right to reside' by virtue of the now revoked Immigration (European Economic Area) Regulations 2016 (see Note 3 - on page 3) and who did not have SETTLED STATUS or PRE-SETTLED STATUS (or who has not since obtained SETTLED STATUS or PRE-SETTLED STATUS), is covered by the 'withdrawal agreement'. This means that they may continue to reside lawfully in the United Kingdom for the time being. However, to be able to continue to be lawfully living in the United Kingdom beyond the 30<sup>th</sup> June 2021 (the end of the 'grace period'), they will need to have obtained SETTLED STATUS or PRE-SETTLED STATUS (or be awaiting a decision following an application for SETTLED STATUS or PRE-SETTLED STATUS) under the European Union Settlement Scheme.



Therefore, there will be EEA Nationals (and other such persons - see Note 1 opposite) who are now living in the United Kingdom who have:

- SETTLED STATUS; or
- PRE-SETTLED STATUS.

There will also be people who have not yet applied to the European Union Settlement Scheme but need to or who have applied and are awaiting a decision.

The information provided in this Benefits Bulletin should enable you to advise all of these groups on where they stand when it comes to either retaining the Social Security benefits they may be getting or claiming new ones.

**Note 1:** In this Benefits Bulletin we refer to EEA Nationals and other such persons.

By '**EEA National**' we mean a person who is a national of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Romania. For this purpose, we also include in the definition a Swiss National.

By '**other such persons**' we include a person who may be considered to be a 'primary carer' (See Note 4 on page 4) or a person who may not themselves be an EEA National but who may be considered to be a 'family member' (see Note 5 on page 5) or an 'extended family member' (see Note 5 on page 5) of such a person.

**Note 2:** Please be aware that special arrangements have been put in place for Irish citizens living in / coming to the United Kingdom. They can access benefits in the same way as British citizens.



## 2. EEA Nationals with Settled Status or Pre-settled Status - What Benefits?

The position of an EEA National (and other such persons) who has been awarded **SETTLED STATUS** is fairly straightforward. They have indefinite leave to remain in the United Kingdom and as such, they have the right to access Social Security benefits in the same way as British citizens.



However, things are different for those EEA Nationals (and other such persons) who have been awarded **PRE-SETTLED STATUS**. They will only have limited leave to remain in the United Kingdom. Moreover, their access to Social Security benefits is restricted.

Those with **PRE-SETTLED STATUS** will not be entitled to receive the following benefits:

#### Means-Tested Benefits

- Universal Credit
- Income-based JSA
- Income-related ESA
- Income Support
- Housing Benefit
- Pension Credit
- Child Benefit

unless their circumstances are such that they may be considered to be exercising a '**right to reside**' in the United Kingdom under the now revoked **Immigration (European Economic Area) Regulations 2016** (see Note 3 opposite) and that particular '**right to reside**' is not a '**non-excluded right to reside**' (see Note 3 opposite) for that particular benefit or they are able to rely on the *Fratila* judgement (see 4. *Fratila* - Court of Appeal).

**Note 3:** An EEA National may formerly have had a '**right to reside**' in the United Kingdom under the now revoked **Immigration (European Economic Area) Regulations 2016** (the '**2016 Regulations**' - see [LINK](#)) where, for example, they were:

- a person who was within the first 3 months of entering the United Kingdom
- a work seeker - a person who has entered the United Kingdom in order to look for work and who has registered at a Job Centre Plus office
- a worker - a person who undertakes work at the direction of another person in return for remuneration and that work may be considered to be '**genuine and effective work**' rather than '**marginal and ancillary**'
- a self-employed person - a person that provides services (which are not undertaken under the direction of another) in return for remuneration and the undertaking may be considered to be '**genuine and effective work**' rather than '**marginal and ancillary**'
- a student - a person on a course of education who is sufficiently self-sufficient not to have to claim Universal Credit and who has comprehensive sickness insurance in the United Kingdom
- a self-sufficient person - a person who is sufficiently self-sufficient not to have to claim Universal Credit and who has comprehensive sickness insurance in the United Kingdom
- a primary carer - see Note 4 on page 4
- a family member or extended family member of a person with a right to reside - see Note 5 on page 5.

A '**non-excluded right to reside**' is a right to reside under the now revoked **Immigration (European Economic Area) Regulations 2016** (the '**2016 Regulations**') which would have enabled a person to claim a particular Means-Tested Benefit (as defined opposite) on 31<sup>st</sup> December 2020.

It is therefore important when seeking to establish the right of a person with PRE-SETTLED STATUS to claim a Means-Tested Benefit (as defined for the purposes of this Benefits Bulletin on page 3), to be aware of the distinction between having a 'right to reside' under the now revoked '2016 Regulations' and having a 'non-excluded right to reside' for that particular benefit.

For example, take Universal Credit - a person with a 'right to reside' as a worker or self-employed person could apply for Universal Credit. This is because having a 'right to reside' as a 'worker' or 'self-employed person' are 'non-excluded rights to reside' for Universal Credit purposes. Whereas, if a person's only 'right to reside' was as a 'work seeker' then they could not apply for Universal Credit because 'work seeker' is an 'excluded right to reside' for Universal Credit.

**Note 4:** A 'primary carer' includes:

- a carer of a person in education whose parent(s) was an EEA National and lived and worked in the United Kingdom and the person in education would be unable to continue to be educated in the United Kingdom if the person who was their carer left the United Kingdom for an indefinite period
- a carer of a British citizen who is residing in the United Kingdom and they would be unable to continue to reside in the United Kingdom if the person who was their carer left the United Kingdom indefinitely.

Moreover, to count as 'primary carer' the person must be responsible (or at least have shared responsibility) for the person's day-to-day care (including being responsible for making decisions about their education, health and finances) and be a family member (or legal guardian) of that person.



A 'worker' or 'self-employed person' may retain their 'worker' or 'self-employed person' status during a period of involuntary unemployment (providing they have not withdrawn from the labour market) or during a period when they are temporarily unable to work due to ill-health.

Moreover, whilst a woman who was a 'worker' or 'self-employed person' has historically been able to retain her worker / self-employed status whilst not working during the latter stages of pregnancy / for a short period after the birth of a child by virtue of case law (see *Saint Prix v SSWP* and *SSWP v HD*) neither situation seems to provide a 'non-excluded right to reside' for Means-Tested Benefits (as defined for the purposes of this Benefits Bulletin on page 3) purposes. This is because neither is a 'right to reside' under the now revoked '2016 Regulations'. However, it may be a point to argue. Moreover, please be aware that a woman who is still employed on a contract of employment and on maternity leave (in particular if they are being paid Statutory Maternity Pay at the time) may still be considered to be a worker.



However, please be aware that none of this would stop a woman from applying for SETTLED STATUS / PRE-SETTLED STATUS providing they were living in the United Kingdom by 11.00 pm on 31<sup>st</sup> December 2020. If they were granted SETTLED STATUS then they could apply for benefits in the normal way. If they were granted PRE-SETTLED STATUS then they could seek to rely on the *Fratila* judgement (see 4. *Fratila* - Court of Appeal) for the purposes of claiming Means-Tested Benefit (as defined for the purposes of this Benefits Bulletin on page 3).

**Note 5:** A 'family member' includes a spouse, a civil partner and a child (aged under 21). An 'extended family member' includes a partner (i.e. not a spouse or a civil partner) with whom the EEA national has had a 'durable relationship'.



**Case Study 1:** Anton and Drena are EEA Nationals. They have two children. They have been living in the United Kingdom since April 2016. Anton works but Drena has recently been made redundant. Apart from their wages their only other income is Child Benefit.

Both Anton and Drena have PRE-SETTLED STATUS. The couple can make a joint claim for Universal Credit. This is because, for Universal Credit purposes, both Anton and Drena have a 'non-excluded right to reside' as a 'worker' (Anton) and person who retains their 'worker' status (Drena). In April 2021 the couple may be awarded SETTLED STATUS (providing they have applied for SETTLED STATUS and applied in good time) because by this time they will have been living in the United Kingdom for 5 years. When they have SETTLED STATUS, they will be able to apply for benefits like any British citizen couple.



**Case Study 2:** Elsa is an EEA National. She has been living with her aunt in the United Kingdom since November 2020 whilst looking for work. Elsa has PRE-SETTLED STATUS. Money is now tight. However, Elsa is not able to apply for Universal Credit. This is because a 'work seeker' is an excluded 'right to reside' for Universal Credit purpose. If Elsa were to find employment, then she could apply for Universal Credit. This is because being a 'worker' would give her a 'non-excluded right to reside' for Universal Credit purposes. However, do note, that Elsa (because she has PRE-SETTLED STATUS) could argue that in excluding her from Universal Credit whilst she was a work seeker the DWP are acting unlawfully in light of the *Fratila* judgement (see 4. *Fratila* - Court of Appeal).

Those with **PRE-SETTLED STATUS** will be able to apply for the following benefits: providing they are able to meet the basic qualifying rules / general rules of entitlement for that benefit.

### Non-Means-Tested Benefits

- Personal Independence Payment (PIP)
- Attendance Allowance (AA)
- Disability Living Allowance (DLA)
- Carer's Allowance (CA)
- New Style JSA (NJSA)
- New Style ESA (NESA)
- Maternity Allowance (MA)
- Industrial Injuries Disablement Benefits (IIDB)

This is because entitlement to these benefits is not dependent upon a person having a particular type of 'right to reside'.

All that is ordinarily required for entitlement to these benefits is that a person be lawfully present in the United Kingdom and in the case of PIP, AA and DLA that they are not excluded from applying for public funds.

Indeed, entitlements to Industrial Injuries Disablement Benefits may be paid when a person is living abroad.



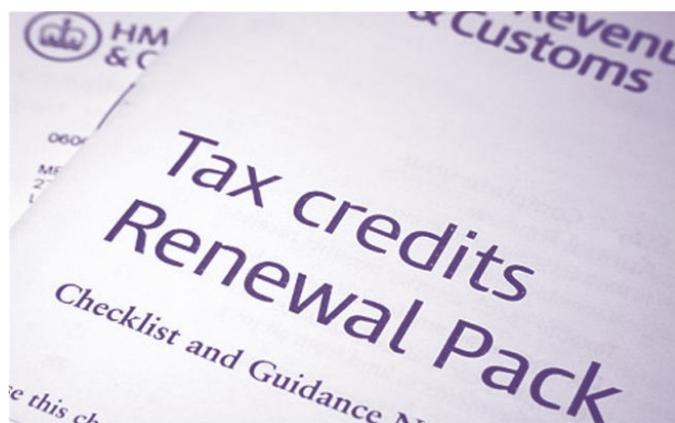
**Tax Credits:** Those with PRE-SETTLED STATUS who are working and getting **Working Tax Credit (WTC)** should be able to continue to get WTC for as long as they remain (or may be treated as remaining) in work or self-employment (e.g. during a period of sickness or maternity leave).



If someone with PRE-SETTLED STATUS is getting WTC and they become a parent, then they should be able to apply for Child Tax Credit (CTC).

If someone with PRE-SETTLED STATUS is getting CTC then this should remain in payment for as long as they may be considered to have a 'right to reside' under the revoked '2016 Regulations' (e.g. because they are a worker or self-employed person, etc). If they were to cease to have a 'right to reside' under the now revoked 2016 Regulations, then CTC may remain in payment providing they would be able to rely on the *Fratila* judgement (see 4. *Fratila* - Court of Appeal).

If someone with PRE-SETTLED STATUS is getting CTC (and not WTC) but were to embark upon paid employment or self-employment that would meet the qualifying conditions for WTC, then they could apply for WTC.



If a person is not getting either WTC or CTC then a new tax credit claim is not now possible due to the introduction of Universal Credit but they are not, in principle, prohibited from applying for an award of CTC if they are getting WTC (or vice versa).

## 3. Grace Period - No Settled Status or Pre-settled Status...

An EEA National (and other such persons) who does not have SETTLED STATUS or PRE-SETTLED STATUS but may be considered to be a '**relevant person**' (see below), has a protected right to remain living in the United Kingdom. They also have the right to claim Social Security benefits at least during the '**grace period**'. In the case of Means-Tested Benefits (as defined for the purposes of this Benefits Bulletin on page 3), any entitlement would be subject to the person establishing that they have a 'non-excluded right to reside' (see Note 3 on page 3) for whichever benefit was actually being claimed.

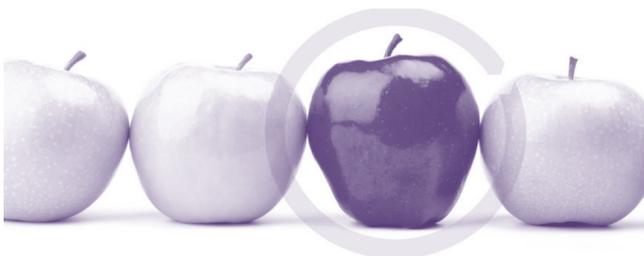
A '**relevant person**' is an EEA National (and other such persons) who (does not have SETTLED STATUS or PRE-SETTLED STATUS) was lawfully resident in the United Kingdom on 31<sup>st</sup> December 2020 by virtue of the fact that they were exercising a 'right to reside' in the United Kingdom under now revoked 2016 Regulations. This could, for example, be in the case of a person who was living in the United Kingdom as a work seeker, a worker, a self-employed person, a student, a self-sufficient person, a 'primary carer' or a 'family member' (or 'extended family member') of a person with a right to reside.

The '**grace period**' is the period from 1<sup>st</sup> January 2021 to 30<sup>th</sup> June 2021. It was introduced to allow more time for EEA Nationals (and other such persons) to apply to the European Union Settlement Scheme for SETTLED STATUS or PRE-SETTLED STATUS.

In terms of Social Security benefit entitlement, a 'relevant person' may:

- continue to receive the benefits they were getting on the 31<sup>st</sup> December 2020 during the 'grace period' providing they continue to meet the conditions for that benefit including, in the case of Means-Tested Benefits (as defined for the purposes of this Benefits Bulletin on page 3) any 'non-excluded right to reside' requirements pursuant to that benefit; and
- claim any benefits / additional benefits that they are entitled to based upon the individual qualifying conditions of that benefit, including in the case of Means-Tested Benefits (as defined for the purposes of this Benefits Bulletin on page 3), any 'non-excluded right to reside' requirements pursuant to that benefit.

Therefore, if a 'relevant person' was getting for example, Universal Credit, Pension Credit, Working Tax Credit, Child Tax Credit and/or Child Benefit on the 31<sup>st</sup> December 2020 then they should be able to continue to receive those benefits up until 30<sup>th</sup> June 2021 providing they continue to meet the conditions for those benefits, including in the case of any Means-Tested Benefits (as defined for the purposes of this Benefits Bulletin on page 3) any 'non-excluded right to reside' requirement pursuant to the benefit in question.



Similarly, if the 'relevant person' were getting no benefits on 31<sup>st</sup> December 2020 but became entitled to a particular Social Security benefit during the 'grace period', then they could apply for that benefit providing they met conditions of entitlement for that benefit, including in the case of any Means-Tested Benefits (as defined for the purposes of this Benefits Bulletin on page 3), any 'non-excluded right to reside' conditions pursuant to the particular benefit.

In so far as Social Security benefit entitlements are concerned it would appear that a 'relevant person' is, in effect, in the same position as a person with PRE-SETTLED STATUS in so far as they can claim 'Means-Tested Benefits' (as defined for the purposes of this Benefits Bulletin on page 3), providing they meet the relevant 'non-excluded right to reside' conditions pursuant to that benefit and/or any 'Non-Means-tested Benefits' (as defined for the purposes of this Benefits Bulletin on page 4), providing they meet qualifying conditions for that benefit. However, one key difference between them is that whilst a person with PRE-SETTLED STATUS might be able to rely on the *Fratila* judgement (see 4. *Fratila* - Court of Appeal) to secure a right to benefit which requires a 'non-excluded right to reside', a 'relevant person' may not.

Here, again, please be aware the distinct circumstances which may give a person a 'right to reside' under the now revoked 2016 Regulations and the 'non-excluded right to reside' status needed for a 'Means-Tested Benefit' (as defined for the purposes of this Benefits Bulletin on page 3).

A person may not have SETTLED STATUS or PRE-SETTLED STATUS in circumstances whereby they have not yet applied to the European Union Settlement Scheme or who have applied but are waiting for a decision.



As things stand, once the 'grace period' has expired on 30<sup>th</sup> June 2021 so does the right to be treated as a 'relevant person'. This inevitably means that payment of any Social Security benefits to a 'relevant person' will cease from 1<sup>st</sup> July 2021.

Having said that, it is important to know that if a 'relevant person' has made an application under the European Union Settlement Scheme, they may continue to receive the benefits to which they have entitlement / be entitled to apply for benefits to which they are entitled, until such time as their application for SETTLED STATUS / PRE-SETTLED STATUS is finally concluded (including during any appeal period) or withdrawn.

It is therefore important that people apply to the European Union Settlement Scheme in good time.

**Note 6:** There is an excellent article [HERE](#) by Child Poverty Action Group (CPAG) on the issue of EEA Nationals (and other such persons) benefit rights following Brexit.

## 4. Fratila - Court of Appeal...

The fortunes of EEA Nationals (and other such persons) who have PRE-SETTLED STATUS may have changed due to this judgement.

In the case of [Fratila and Tanase v SSWP](#), the Court of Appeal found that it was wrong for the DWP to treat those who have been granted 'PRE-SETTLED STATUS' differently to those granted 'SETTLED STATUS' when considering their entitlement to Social Security benefits - specifically Universal Credit and Pension Credit (and the 'legacy benefits of Income-based JSA, Income-related ESA, Income Support and Housing Benefit).

The Court found that the changes to the benefit rules had the effect of unlawfully excluding Messrs Fratila and Tanase from claiming benefits (in their case Universal Credit).



Whilst the judgement does not explicitly refer to the right to reside requirements of Child Benefit and Child Tax Credit (which also exclude those with only PRE-SETTLED STATUS), it is understood that the findings may apply equally to these benefits.



The DWP asked the Court of Appeal for permission to appeal to the Supreme Court, though this was refused.

The DWP can, of course, seek the Supreme Court's permission directly to appeal against the findings of the Court of Appeal in this matter.



However, in handing down its judgement the Court of Appeal, stated that it was doubtful that there are any genuine legal points for the Supreme Court to consider. The Court of Appeal gave a short stay until 26<sup>th</sup> February 2021, during which time the DWP do not have to implement the decision.

Therefore, it appears that those who have been granted PRE-SETTLED STATUS can access benefits in the same way as those with SETTLED STATUS i.e. without barrier. If this proves to be the case, this makes things so much simpler; when dealing with PRE-SETTLED STATUS cases.

If the DWP do decide to ask the Supreme Court for permission to appeal against the Court of Appeal's judgement and permission is granted, it is likely that the DWP will refuse to award any 'Means-Tested Benefits' (as defined for the purposes of this Benefits Bulletin on page 3) to holders of PRE-SETTLED STATUS until the Supreme Court has given its judgement on the matter.

Any person who has been awarded PRE-SETTLED STATUS and is refused one of the 'Means-Tested Benefits' (as defined for the purposes of this Benefits Bulletin on page 3) on the basis of their immigration status, should consider making an application for Mandatory Reconsideration of that decision and then - depending on the outcome - submit an appeal to the First-tier Tribunal to assert their right to benefit.



If it has been more than one month since the date of the decision notice, then the person may need to show that there is 'special circumstance' (a good reason) as to why they did not ask for a Mandatory Reconsideration sooner.

If a person has already claimed and been refused benefit and submitted a Mandatory Reconsideration but had it refused, then they will need to submit and appeal against the refusal to award benefit.

**Note 7:** There is an excellent article [HERE](#) by Child Poverty Action Group (CPAG) on the Fratila judgement and its implications for those with PRE-SETTLED STATUS.

## 5. European Union Settlement Scheme...

The [European Union Settlement Scheme](#) makes provision for EEA Nationals (and other such persons) who were living in the United Kingdom by 11.00 pm on 31<sup>st</sup> December 2020, to apply for permission to remain living in the United Kingdom.

Successful applicants to the scheme will be granted either **SETTLED STATUS** or **PRE-SETTLED STATUS**.

**SETTLED STATUS:** Will normally be given to people who have lived in the United Kingdom for 5 or more years. Successful applicants will be given indefinite leave to remain (live and work) in the United Kingdom.

**PRE-SETTLED STATUS:** Will normally be given to people who have lived in the United Kingdom for less than 5 years. Successful applicants will be given limited leave to remain (live and work) in the United Kingdom for a period of up to five years.



The people that can apply under the scheme includes:

- anyone who is an EEA National
- anyone who is a family member (including a child) of an EEA National.

Please go to [PEOPLE WHO MAY APPLY](#) to see the full list of people who may apply under the European Union Settlement Scheme for permission to remain living in the United Kingdom.

A person does not need to apply if they already have [Indefinite Leave to Enter](#) the United Kingdom or [Indefinite Leave to Remain](#) in the United Kingdom or they are a British or Irish citizen (including those with 'dual citizenship').



The deadline for applications to the European Union Settlement Scheme is **30th June 2021**.

When the deadline for applying to the European Union Settlement Scheme is reached, EEA Nationals who have failed to apply may be unlawfully present and subject to removal from the United Kingdom.

Once a person with PRE-SETTLED STATUS has lived in the United Kingdom for five years (including any period of residency before they gained PRE-SETTLED STATUS), they will need to apply for SETTLED STATUS if they wish to continue to live in the United Kingdom.



EEA Nationals and others (who are not a 'family member' or 'extended family member' of an EEA National already living in the United Kingdom - see Note 5 on page 5) who wish to come and live / work in the United Kingdom must apply under the new points based immigration system. They will, in effect, be 'persons subject to immigration control' meaning that they require permission to enter and remain in the United Kingdom. See this [LINK](#) for more information.

As a 'person subject to immigration control' they will not ordinarily be entitled to any of the Means-Tested Benefits listed on page 3 or Non-Means-Tested Benefits listed on page 5. Any permission to enter or remain in the United Kingdom would normally be subject to the person having no recourse to public funds. Do seek further advice and information as necessary.

## 6. The Quick Guide...

The following is meant as a 'quick guide' only. In all cases the person must have been living in the United Kingdom on 31<sup>st</sup> December 2020.

### Settled Status

For people who have lived in the United Kingdom for at least 5 years.

Have 'Indefinite Leave to Remain'.

May claim benefits in the same way as British citizens.

### Pre-Settled Status

For people who have lived in the United Kingdom for less than 5 years.

Have 'Limited Leave to Remain' for up to 5 years.

May claim Means-Tested Benefits providing they have a 'non-excluded right to reside' for that benefit or may rely on Fratila judgement.

May claim Non-Means-Tested Benefits - normal rules apply.

### No Settled Status or Pre-settled Status

Have 'grace period' (1.1.2021 to 30.6.2021) in which to apply for Settled Status or Pre-settled Status.

May claim Means-Tested Benefits if they have a 'non-excluded right to reside' for that benefit. May **NOT** rely on Fratila judgement.

May claim Non-Means-Tested Benefits - normal rules apply.

Will be unlawfully present in United Kingdom from 1.7.2021.

The above is just a quick guide illustration. We hope that it helps to aid your understanding of things. Do seek further information and advice as required.





## 7. The Legislation and Case Law...

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The following legislation has been introduced or revoked as part of delivering Brexit and severing ties between the United Kingdom and the European Union.

- the [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020](#) has been passed ending the historic free movement (and rights of residence) arrangements from 31<sup>st</sup> December 2020 and makes adjustments to the rules on Social Security entitlements
- the [Immigration \(European Economic Area\) Regulations 2016](#) which formerly gave EEA Nationals (and others) a right to reside in the United Kingdom by virtue of European Union treaty rights have been revoked as of 31<sup>st</sup> December 2020
- the [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020](#) have been implemented ending freedom of movement and other provisions relating to immigration and the access to benefits and services
- the [Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#) have been implemented providing for a 'grace period' (from 1<sup>st</sup> January 2021 to 30<sup>th</sup> June 2021) for EEA Nationals who were living in the United Kingdom by 31<sup>st</sup> December 2020 to make applications to the European Union Settlement Scheme for PRE-SETTLED STATUS (limited leave to remain) or SETTLED STATUS (indefinite leave to remain).

Moreover, the Court of Appeal has ruled in the case of [Fratila and Tavase v Secretary of State for Work and Pensions](#) finding that the DWP was wrong to treat EEA Nationals who have been granted PRE-SETTLED STATUS differently to those granted SETTLED STATUS when considering their entitlement to Social Security benefits.



## 8. The Numbers...

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Nationally, as of 30<sup>th</sup> November 2020:

- 4.48 million people have applied to the European Union Settlement Scheme of which 4.28 million applications have been concluded
- 4,063,800 million applications have been received from people living in England
- 225,500 applications have been received from people living in Scotland
- 74,300 applications have been received from people living in Wales
- 72,700 applications have been received from people living in Northern Ireland
- 55% (2,335,300) of applicants have been granted SETTLED STATUS
- 43% (1,825,500) of applicants have been granted PRE-SETTLED STATUS
- 0.7% (29,000) of applications have been refused
- 2% (90,600) of applications have been withdrawn or considered void.

Please *click* [HERE](#) for this and more national statistical information.

Nationally, as of 30<sup>th</sup> September 2020:

- 2% (92,680) of applicants were aged 65 and above
- 83% (3,390,330) of applicants were aged 18 to 64
- 14% (578,830) of applicants were aged under 18
- 0.7% (29,000) of applications have been refused

Across all nationalities, the highest numbers of applications received were from Polish, Romanian and Italian nationals. Polish and Romanian nationals were consistently among the highest application numbers within England, Scotland and Wales. For Northern Ireland however, Polish and Lithuanian nationals accounted for the largest number of applications.



Please *click* [HERE](#) for this and more national statistical information.

The picture for parts of the West Midlands is such that between 28<sup>th</sup> August 2018 to 30<sup>th</sup> September 2020 the following numbers of people made an application to the European Union Settlement scheme.

- 84,860: Birmingham - population of 1.149 million
- 28,360: Sandwell - population of 328,774
- 24,860: Wolverhampton - population of 256,600

- 14,460: Walsall - population of 304,400
- 6,900: Dudley - population of 315,800

Please note that the European Union Settlement Scheme 'fully opened' on 28<sup>th</sup> March 2019. Therefore, the total number of regional applications could in fact be higher.

## 9. Getting the Correct Advice...

The Welfare Rights Service provides advice on Social Security benefit entitlements. We are neither accredited to nor able to provide advice on immigration matters.



This Benefits Bulletin is designed to provide information on the Social Security benefit rights of EEA Nationals (and such other persons) post 31<sup>st</sup> December 2020. If someone then believes that they are in need of immigration advice then they can go to this [LINK](#) to locate an immigration advisor near them.

You may contact the Specialist Support Team for further information or advice by email at [wrs@wolverhampton.gov.uk](mailto:wrs@wolverhampton.gov.uk) or ring them on (01902) 555351.

Welfare Rights Service  
Specialist Support Team  
City of Wolverhampton Council  
Email: [WRS@wolverhampton.gov.uk](mailto:WRS@wolverhampton.gov.uk)