

RIGHTS OF EU CITIZENS IN SCOTLAND

EU Citizens and Your Housing Rights

This factsheet provides a brief summary of your housing rights as an **EU citizen** in Scotland. 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.¹

Following the UK's exit from the European Union (**Brexit**), the rights of EU citizens in Scotland have changed in some important ways:

EU Citizens who were living in the UK on 31 December 2020

- ▶ EU citizens and their family members who were living in the UK on 31 December 2020 may have applied to the EU Settlement Scheme (EUSS) and been granted either **Settled Status** (indefinite leave to remain) or **Pre-Settled Status** (limited leave to remain for five years). Irish citizens and people with indefinite leave to remain did not have to apply.
- ▶ If you do not currently have leave to remain, you may be able to make a late application to the EUSS. You should urgently seek legal advice if you wish to stay in Scotland.
- ▶ If you have made an application to the EUSS and are waiting for a decision (a '**pending application**'), you will be given a **Certificate of Application** as proof of having made this application. You have the right to remain in the UK until your application has been decided. If it is refused, you have the right to remain in

the UK until it is no longer possible to appeal the decision. You will hold a **Certificate of Application** as proof of having made this application.

EU Citizens who arrived on or after 1 January 2021

EU citizens and their family members who arrived in the UK for the first time on or after 1 January 2021 cannot apply for Settled or Pre-Settled Status.

You may have arrived as a **Short Term Visitor**. If you wish to remain in the UK for more than six months, you must apply for a **Long Term Visa** (for example, to study, or work, or join a family member).

Non-EU family members of EU citizens can enter the UK if they hold an EUSS family permit or a UK-issued biometric residence card. Once they have entered the UK, they should apply to the EUSS within three months.

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 and Your Housing Rights continued

Do I have the right to buy and own property in Scotland?

All EU Citizens

All people in Scotland have the right to buy and own property.

Your rights to buy and own property are equal to that of a UK citizen, and property owners, banks and mortgage lenders must not discriminate against you on the basis of your citizenship.

However, you may face some barriers in arranging to buy and own property if you do not have leave to remain (like Settled Status or Pre-Settled Status or a Long Term Visa). For example, you have the right to open a UK bank account but you may be asked to provide more information to support your application than a UK citizen.

If you need to obtain a mortgage to purchase a property, and you do not have leave to remain or you have limited leave to remain (like Pre-Settled Status or a Long Term Visa), you may not be eligible for some mortgages, or the mortgage lender may charge you a higher rate than a UK citizen.

Do I have the right to rent property in Scotland?

All EU Citizens

All people in Scotland have the right to buy and own property.

Your rights to rent property from a private landlord or housing association are equal to that of a UK citizen, and landlords must not discriminate against you on the basis of your citizenship, nor do they have the right to refuse to rent property to you on the basis of your immigration status. If you are subject to immigration control, you cannot rent from a local authority landlord.

The UK Government's Right to Rent scheme does not apply in Scotland. This scheme requires landlords of private accommodation in England to check the immigration status of all new tenants.

Do I have the right to access homelessness assistance from a local authority in Scotland?

Some EU citizens and their family members in Scotland are eligible to make an application to their local authority for homelessness assistance.

If you are eligible and homeless, the local authority has a duty help you by (a) taking a homelessness application; (b) making inquiries into the circumstances of your application; and (c) providing you with temporary homelessness accommodation if you need it.

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EU Citizens and Your Housing Rights continued

If a local authority refuses to provide you with homelessness assistance you should ask them to provide a written reason for their decision. You have a right to review that decision, and should do so within 21 days. You can get independent advice to help you request a review (see sources below).

The local authority might ask you to pay towards the costs of your temporary homelessness accommodation. If you cannot afford these costs, you should get advice on challenging them. You do not need to be in receipt of benefits to access temporary homelessness accommodation.

The following EU citizens are eligible for homelessness assistance:

EU Citizens who have Settled Status

If you hold Settled Status, you automatically satisfy the **right to reside** test. You are eligible for homelessness assistance in Scotland, so long as you are habitually resident.

EU Citizens who have Pre-Settled Status

If you hold Pre-Settled Status, you must satisfy the **right to reside** test² at the time of making your application, in order to establish your eligibility for homelessness assistance. In Scotland, you could be eligible if you are a jobseeker.

EU Citizens who have a Certificate of Application

If you have applied to the EUSS and are awaiting a decision, you may be eligible for homelessness assistance until you are granted Settled Status or Pre-Settled Status (or until you are no longer able to appeal a refusal of your application).

To prove your eligibility, you will need to show that you were exercising a right to reside on 31 December 2020, and that you are exercising a right to reside at the time of making your homelessness application.

The following EU citizens are not eligible for homelessness assistance:

- ▶ **EU Citizens who were lawfully residing in the UK on 31 December 2020 and did not apply to the EUSS before 30 June 2021**
- ▶ **EU Citizens who arrived on or after 1 January 2021 for the first time**

However, if you are experiencing difficulty with accessing accommodation, you should seek specialist advice (see sources of information below)

If you are unsure about your right to own or rent property or to access homelessness assistance, you should seek advice and support.

2. As European free movement no longer applies in the UK, your immigration status no longer depends on whether you have the right to reside. However, the right to reside continues to be relevant in determining eligibility for homelessness assistance and here, the test will be considered in line with the Immigration (European Economic Area) Regulations 2016, as in force on 31 December 2020, subject to any amendments.

EU Citizens and Your Housing Rights continued

Where can I get more advice or support?

For more information about your housing rights in Scotland, or if you need more help understanding your rights, you can:

- ▶ Call the **EU Citizens Support Service** helpline at Citizens Advice Scotland on **0800 916 9847** (Monday to Friday, 9am to 5pm) - or you can find your local advice bureau at: <https://www.cas.org.uk/bureaux>
- ▶ Call the **Shelter Scotland Helpline** on 0808 800 4444 (Monday 9am-1pm, Wednesday 1pm-5pm and Friday 9am-1pm. You can call the number out of these hours and leave a voicemail) or read more about your rights to housing in Scotland, and further details of a housing rights advice line, at Shelter Scotland: https://scotland.shelter.org.uk/get_advice
- ▶ Read factsheets about access to housing in Scotland at **Citizens' Rights Project**: <https://citizensrightsproject.org/2022/05/30/learn-about-your-rights-as-a-migrant-in-the-uk-with-our-new-multilingual-factsheets/>
- ▶ Read more about your rights to buy and rent property at the **MyGov.Scot Housing and Local Services**: <https://www.mygov.scot/housing-local-services/>
- ▶ Read resources on Housing Rights for Housing Advisers for new migrants at the Chartered Institute of Housing: <https://www.housing-rights.info/scotland-housing-advisers.php>
- ▶ If you are experiencing domestic abuse, you can call **Scotland's Domestic Abuse and Forced Marriage** helpline on 0800 027 1234. This is available 24 hours a day for support and advice, including immigration and housing rights: <https://womensaid.scot/information-support/domestic-abuse-and-my-rights-2/>
- ▶ You may also find it helpful to visit the **Scottish Women's Rights Centre** or phoning our helpline on **08088 010 789**. We can offer free and confidential legal advice and advocacy support if you have been affected by violence and abuse in Scotland. <https://www.scottishwomensrightscentre.org.uk/>

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