

8th December 2017

Rights of citizens - UKCEN observations of UK publications:

<https://www.gov.uk/guidance/status-of-eu-nationals-in-the-uk-what-you-need-to-know#agreement-on-rights-for-eu-citizens-and-their-families>

and

https://ec.europa.eu/commission/sites/beta-political/files/citizens_rights_-_comparison_table.pdf

IN PROGRESS

1 - Economically inactive citizens and groups who have not been mentioned in the updated publication <https://www.gov.uk/guidance/status-of-eu-nationals-in-the-uk-what-you-need-to-know#agreement-on-rights-for-eu-citizens-and-their-families>

such as:

- Carers, whose sole activity in the UK was and is caring for a family member and who are in receipt of 'carer's allowance and/or other public funds
- People who exercised treaty rights for less than 5 years before retiring or becoming incapacitated
- Single parents who have never been economically active or have been for less than 5 years and are in receipt of public funds
- Spouses of British nationals who rely on public funds to support their families, whose EEA spouses would not fall under the self-sufficient category
- Disabled people who were never able to work or be self-employed and are in receipt of public funds
- Victims of domestic violence who are dependent on their spouse
- People in shelters separated from their EU spouses
- EU children in care
- Non-EEA nationals whose residence rights derive from their EEA spouses and subsequently divorce

We will continue to lobby the UK Government to ensure a new policy is set up and published as soon as possible, so that people in these categories can receive reassurance they will be able to apply for the new status.

<https://www.facebook.com/notes/medivisas-uk-llp/thoughts-on-the-citizens-rights-agreement/1721456447968528/>

1 - The specified date is the date of the UK's withdrawal from the EU (11pm on the 29th March 2019). Because no earlier specified date has been set, this means that EU nationals and their family members will retain their rights up until this point, where previously it had been thought that an earlier specified date could be set that would affect recent arrivals to the UK.

2 - Family members of EU nationals are defined as so as long as they are related to the EU national on the date of withdrawal. This means that those EEA nationals who are resident in the UK at the date of withdrawal, and who are married to a non-EEA national at the time of withdrawal, will not have to meet the UK immigration rules to bring those family members to the UK after this date. Crucially this will also apply to other family members in the line such as parents and grandparents. It will not apply to those in a 'durable relationship', i.e. unmarried partners.

3 - Children born or adopted after the withdrawal date, where both parents are protected by the agreement or one is protected, and the other is a UK national, or where the child is born to or adopted by a protected person who has sole or joint custody, will become a protected person.

4 - Family members with a retained right of residence on the relevant date will keep it providing they qualify as per Article 12 and 13 following the death of their partner or a divorce.

5 - Retired people will still be eligible as per Articles 17 and 18.

6 - It will now take an absence of FIVE years to lose PR/settled status, rather than two years as it is now.

7 - The criminality requirement (with regards to crimes committed before the specified date) will not be brought into line with the Immigration Rules as they stand for non-EEA nationals, but will still be based on the directive.

8 - Rights are protected for life!

9 - A minimum of two years must be allowed for people to apply for any documents to reflect their status.

10 - The process will be simple, streamlined, straight-forward.

11 - Those who already have a PR certificate will have this converted to the new status free of charge.

12 - Those who have ILR will also have this opportunity, though it is not clear if this will be mandatory.

There are still details which need to be worked out but now that this agreement has been reached it is hoped that the next stages will be simpler as much of the policy can now be worked out internally without the need for agreement from the EU27.

Lastly: Today's Agreement expressly states that the European Court of Justice (ECJ) will be the ultimate arbiter of citizens' rights and their interpretation after 2019. Matters can be referred to the ECJ until 2027 to ensure the rights of EU citizens are upheld.

More updates will be published by UKCEN, once further details are examined by the team.