



Technical Notice (10)

Guidance to EU/ EEA/ Swiss Residents of Gibraltar

16 November 2020

The position under the EU-UK Withdrawal Agreement of EU, EEA and Swiss nationals residing in Gibraltar and of British nationals (including Gibraltarians) residing in an EU Member State, an EEA State or Switzerland.

Note: This Guidance Note is purely informative and it does not supplement or complete the EU-UK Withdrawal Agreement or legislation enacted by HM Government of Gibraltar to give effect to the same. For these reasons, this Guidance Note should not be interpreted as stating the official position of HM Government of Gibraltar.

Introduction.

The Withdrawal Agreement concluded between the European Union and the United Kingdom established the terms of the United Kingdom and Gibraltar's orderly withdrawal from the EU.

The Withdrawal Agreement, which equally applies to Gibraltar, entered into force on 1 February 2020.

On 31 December 2020, the Transition Period established under the Withdrawal Agreement will come to an end. The end of the Transition Period will bring an end to the current status quo. Subject to the outcome of ongoing negotiations concerning Gibraltar's future relationship with the EU, the resulting changes will primarily affect persons who are not covered by the personal scope of the Withdrawal Agreement and who intend to exercise rights in Gibraltar as from 1 January 2021.



Purpose.

The objective of the Withdrawal Agreement, in so far as Citizens' Rights are concerned, is to safeguard and preserve rights derived from EU law that are, on 31 December 2020, being exercised by EU, EEA, or Swiss nationals in the United Kingdom (and Gibraltar) and by British nationals (including Gibraltarians) in the EU, the EEA or Switzerland.

The purpose of this Guidance Note is to explain to EU, EEA or Swiss nationals residing in Gibraltar who are covered by the personal scope of the Withdrawal Agreement (hereinafter referred to as "EEA Residents"), the mechanisms put in place by HMGoG in order to preserve their EU rights in Gibraltar. Such EEA Residents will, beyond 31 December 2020, continue to be able to live in Gibraltar and they will be able to benefit from the same EU rights that they currently enjoy.

This guidance note covers only the position with respect to EEA Residents. A separate Technical Notice will be issued with respect to EU, EEA or Swiss citizens working in Gibraltar as frontier workers.

Who are the EEA Residents covered by the Withdrawal Agreement?

The EEA Residents covered by the Withdrawal Agreement are:

- (1) EEA Residents who exercised their right to reside in Gibraltar in accordance with EU law before 31 December 2020 and continue to reside in Gibraltar thereafter; and
- (2) Family members of the persons referred to in (1) above provided that they fulfil the conditions set out in Articles 10(1)(e), 10(1)(f), 10(2), 10(3) and 10(4) of the Withdrawal Agreement.



What will be the benefits enjoyed by EEA Residents covered by the Withdrawal Agreement?

In accordance with the Withdrawal Agreement, EEA Residents will continue to be able to exercise their rights derived from EU law in Gibraltar for the rest of their lives unless they cease to meet the conditions set out in the Withdrawal Agreement. This means that, after 31 December 2020, EEA Residents can continue to live and work in Gibraltar under the same substantive conditions and with the same EU rights as they do now.

How will EEA Residents who are beneficiaries of the Withdrawal Agreement be identified in Gibraltar?

The Withdrawal Agreement afforded to HM Government of Gibraltar the choice to opt between a constitutive residence scheme or a declaratory residence scheme in order to identify EEA Residents covered by the scope of the Withdrawal Agreement. The Government has taken a policy decision to implement the **declaratory residence scheme** where residence status is conferred by operation of the law and is not dependent on EEA Residents having fulfilled any new administrative procedures.

Therefore, under this scheme, EEA Residents who are covered by the Withdrawal Agreement will automatically qualify without the need to apply for a new residence status.

The scheme will be based on the blue civilian registration card which is issued by the Government to all EEA Residents of Gibraltar. Accordingly, every person who holds the blue card on 31 December 2020 will automatically qualify for residence status under the Withdrawal Agreement with no further steps being required to be taken. In order to close this category of persons, the Government will, subject to some limited exceptions (e.g. where an application is pending or where a family member of an EEA Resident resides outside of Gibraltar and decides to reside in Gibraltar after 31 December 2020) cease issuing the blue card as from 1 January 2021.



The Government will shortly be enacting legislation to provide for the recognition of the blue civilian registration card as a “residence document” for the purposes of Withdrawal Agreement. The blue civilian registration card will therefore produce the same legal effect as if it were a residence document issued in accordance with the Withdrawal Agreement. Current blue civilian registration cards will remain valid until their stated expiry date. Upon the expiry of the current blue civilian registration cards, EEA Residents will be required to apply for a renewal of this card as is currently the case.

What should EEA Residents currently living in Gibraltar do before 31 December 2020?

EEA Residents who already have a blue civilian registration card do not need to take any further steps.

Those EEA Residents who may not have taken the steps already to obtain a blue civilian registration card, are advised to start the process of registering themselves as being resident in Gibraltar.

The Civil Status and Registration Office can be contacted for these purposes. Their contact details are as follows:

Civil Status & Registration Office
Joshua Hassan House
2 - 8 Secretary's Lane
Gibraltar
GX11 1AA

Tel: (+350) 20076948

E-mail: immigration.csro@gibraltar.gov.gi



How will EEA Residents who are beneficiaries of the Withdrawal Agreement be distinguished from EU, EEA or Swiss nationals who may seek to reside in Gibraltar after 31 December 2020?

EU, EEA or Swiss nationals who may seek to settle in Gibraltar as from 1 January 2021 (“Future EEA Residents”) will, if successful, be issued with the same green civilian registration cards that are currently issued to persons of all other nationalities. In order to distinguish Future EEA Residents from all other third country nationals, the number on the green card issued to Future EEA Residents as from 1 January 2021 will start with the letters “EEA”. The conditions that EU, EEA or Swiss nationals will have to satisfy in order to obtain residence in Gibraltar as from 1 January 2021 will be the same as those which currently apply to third country nationals.

What should British nationals (including Gibraltarians) currently living in an EU Member State (including Spain), an EEA State or Switzerland do before 31 December 2020?

British nationals (including Gibraltarians) who are exercising EU residence rights in an EU Member State (including Spain), an EEA State or Switzerland on 31 December 2020 will also be entitled to preserve those EU rights in accordance with the Withdrawal Agreement.

Such persons would be advised to familiarise themselves with the general guidance issued by the UK Government with respect to British nationals living in Europe. This guidance, which applies equally to British Gibraltarians, can be accessed on the following website:

<https://www.gov.uk/guidance/living-in-europe>

The UK Government has also published specific country by country advice. British nationals, including British Gibraltarians, are asked to check the advice issued by the



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UK Government with respect to the country in which they reside. National guidance addressed to British nationals in the country of residence should also be followed.

All UK Government “Living in Country Guides” can be accessed on the following website:

<https://www.gov.uk/government/collections/overseas-living-in-guides>

If you live abroad, it is imperative that you find out about how the government in your country of residence is implementing the Withdrawal Agreement. This is particularly important since it is possible that you may have to take active steps with the relevant immigration authorities concerned, ahead of a particular date, in order to be able to exercise rights under the Withdrawal Agreement in future.