

Brexit: right of UK citizens to reside in the Netherlands

On January 31, 2020 the United Kingdom left Europe. A withdrawal agreement ('deal') was negotiated under which UK citizens and their family members who lawfully resided in the Netherlands before the Brexit date or during the transitional period will retain their right to reside in the Netherlands.

The transitional rules apply through to December 31, 2020. The arrangements in the withdrawal agreement apply to both UK citizens and any family members who are not EU nationals.

During the transitional period, UK citizens (and thus also any family members who are not EU nationals) will retain their right to reside, work and study in the Netherlands.

Only when the transitional period has ended will UK citizens and their family members have to be in possession of a Dutch residence permit. The Dutch Immigration and Naturalization Service (INS) will automatically invite UK citizens who lawfully resided in the Netherlands *before* Brexit or during the transitional period to apply for a residence permit. This residence permit will be granted under the same conditions that apply for residence as an EU national. No new or stricter conditions will thus be imposed on the residence. Employers are not obliged to apply for work permits for this group.

What steps need to be taken?

It is essential that you ensure that you are correctly registered with the municipality where you live. Firstly, this means that the INS will then have your contact details, but also your registration in the Personal Records Database (*Basisregistratie Personen*; BRP) shows that you currently (in any case before Brexit or during the transitional period) lawfully reside in the Netherlands on the basis of the EU treaty.

If you are correctly registered with the municipality where you live, then you do not have to take any further action at this time.

Applying for a residence permit during the transitional period

Because the INS will have to deal with a large increase in the number of applications for residence permits in a relatively short period, it was decided to write to everyone personally, inviting them to submit an application and to send this letter in stages. To ensure this runs smoothly, everyone is urged to wait until they receive this letter. It is not necessary to submit an application before then, because the right of residence will be retained during the entire transitional period.

The INS charges for residence permit applications: the charges are EUR 58.

Holders of a document for permanent residence

UK citizens who currently have a permanent right of residence (or possess a 'Permanent residence Citizens of the Union and their Family Members' residence document) must also possess a *national* residence permit after the transitional period. The INS will provide these people with a new residence document free-of-charge and

will send them a letter in due course so that they can schedule an appointment to pick up the new residence document.

Holders of a national residence permit

UK citizens who currently have a residence permit on national grounds, for example as highly skilled migrants, can opt to retain this. After Brexit they can continue to live in the Netherlands on the basis of this permit as long as they continue to comply with the conditions for the residence permit. It is however also possible to rely on the new scheme and obtain a residence permit under the conditions of EU law. The INS will also write to this target group.

Dual citizenship

UK citizens who also have the nationality of another EU Member State, can continue their lawful residence in the Netherlands under this second nationality and thus do not have to apply for a residence permit.

Border workers

UK citizens residing outside the Netherlands and who worked in the Netherlands as border workers before Brexit or during the transitional period may continue to do so without the need for a work permit.

For UK citizens who wish to work in the Netherlands as border workers for the first time after the transitional period, it is expected that employers will have to be in the possession of a work permit. However, this still depends on what is further agreed about this.

Cross-border services by third country nationals

As of January 31, 2020, a registration with the Dutch Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen; UWV*) will no longer suffice for people with a non-EU/EEA or Swiss nationality who reside in the United Kingdom and provide cross-border services in the Netherlands under the European Treaty. Employers must possess a work permit for these service providers, simply because after the Brexit date the United Kingdom is no longer a part of the EU and the arrangements made in the withdrawal agreement only apply to UK citizens and their family members.

Only after the transitional period a right to reside in the Netherlands?

UK citizens who only intend to live in the Netherlands after the transitional period can apply for a residence permit under national law, such as a highly skilled migrant permit or a residence permit for study, as of January 1, 2021. They are not required to possess an authorization for temporary stay (*machtiging tot voorlopig verblijf*), which means they can travel to the Netherlands without a special visa to settle here.



The information contained in this memorandum is of a general nature and does not address the specific circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.