



GMS Flash Alert

Immigration Edition

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United Kingdom - EU Settlement Scheme Updates

On 17 July 2023, a new Statement of Changes to the U.K. Immigration Rules was released that included detail on enhancements to the EU Settlement Scheme.¹

The updates made to the EU Settlement Scheme (EUSS) are in response to the High Court judgment handed down last year,² which found that the EUSS breached the Withdrawal Agreement between the U.K. and the European Union (EU). The judgement found that the EUSS wrongly allowed holders of pre-settled status to become unlawfully resident if they did not make a further application for settled status. The 17 July 2023 Statement of Changes implements the High Court decision and confirms that mechanisms will be put in place to help ensure individuals will not become unlawfully resident if they do not submit a further application.³

Full details on the operational implementation of the changes are yet to be released by the Home Office (particularly those relating to automation in 2024).

WHY THIS MATTERS

Employers that recruit and employ EU nationals should understand the changes and communicate these to key stakeholders -- including impacted employees -- so that any operational and administrative processes can be updated as required.

Further Details

Notable changes include the following:

- Individuals with pre-settled status should not lose residence rights even if they have not applied for or secured settled status.

- From September 2023, individuals with pre-settled status under the EUSS will automatically have their status extended by two years before it expires if they have not obtained settled status.
 - The process will be automated and reflected in an individual’s digital status; they will be notified directly of the extension.
 - This change will keep an individual from losing his/her status if he/she does not apply to switch from pre-settled into settled status.
- The Home Office intends to take steps to automatically convert as many eligible pre-settled-status holders to settled status once they are eligible for it without them needing to make an application.
- Changes have been made to the way in which reasonable grounds for late applications to the EUSS are considered.
- The EUSS/EU Family Permit routes for family members of qualifying British citizens or primary caregivers of a British citizen will close to new applicants as of 8 August 2023.
 - These routes enabled family members of qualifying British citizens on their return to the U.K. after exercising free movement rights in the European Economic Area or Switzerland (“Surinder Singh” cases) or primary caregivers of British citizens (“Zambrano” cases), to secure residence rights in the United Kingdom.
 - Those individuals who already hold status (or have a pending application, appeal or administrative review) under these routes or who are still entitled to apply via a relevant EUSS family permit can continue to reside and work in the United Kingdom.

KPMG INSIGHTS

In addition to communicating the changes to key stakeholders, employers should keep in touch with their immigration counsel to make sure that they are monitoring the implementation and operationalisation of the changes by the Home Office. For example, it may be necessary to review Right to Work policies to determine whether amendments are required given that pre-settled status will automatically be extended by two years in certain situations.

FOOTNOTES:

1 See [HC 1496 – Statement of Changes in Immigration Rules \(17 July 2023\)](#).

2 *Independent Monitoring Authority v Secretary of State for the Home Department*.

3 A separate U.K. government announcement from the Home Office relating to updates to the EUSS, see: [“EU Settlement Scheme enhancements confirmed” \(17 July 2023\)](#). For related coverage, see [GMS Flash Alert 2021-203](#), 22 July 2021.

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Contact us

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