EU Settlement: Absences And The 30-Month Rule

The EU Settlement Scheme (EUSS) was introduced to protect the immigration position of EU, EEA and Swiss nationals, together with their eligible family members, following the UK's exit from the European Union. The scheme represents a significant component of the UK's post-Brexit immigration framework, ensuring that individuals who had established residence in the UK prior to the end of the transition period are able to continue living and working in the UK lawfully.

Under the scheme, individuals are granted either limited leave to remain, commonly referred to as pre-settled status, where they have not yet completed a qualifying period of five years' continuous residence in the UK, or indefinite leave to remain, known as settled status, where they are able to demonstrate that they meet the relevant residence requirements. These two forms of permission reflect different stages of an individual's residence history and provide a pathway from temporary to permanent status within the UK immigration system.

Pre-settled status is typically granted for a period of five years and allows individuals to live, work and study in the UK, with access to healthcare and certain public services. During this period, individuals are expected to continue building their residence in the UK with a view to qualifying for settled status once they meet the residence requirements. Settled status, on the other hand, provides indefinite permission to remain in the UK and is not subject to time limits. It also affords greater certainty and security, including the ability to spend longer periods outside the UK without losing status.

To be granted settled status, an applicant must normally complete a continuous qualifying period of residence in the UK. This requirement has historically been assessed in accordance with detailed provisions set out in Appendix EU of the Immigration Rules, including rules governing absences from the UK. The concept of continuous residence has been central to the operation of the scheme and has required careful consideration by applicants, particularly those whose circumstances involve travel outside the UK.

In most cases, an applicant must not have been absent from the UK for more than six months in any rolling 12-month period, subject to limited exceptions. This rule has traditionally been applied strictly, with each 12-month period assessed on a rolling basis rather than by reference to fixed calendar years. As a result, individuals have needed to monitor their absences carefully to ensure that they do not exceed the permitted threshold.

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The Immigration Rules allow for a single period of absence of up to 12 months where there is an important reason, such as serious illness, study, specialist training, or an overseas posting. This concession has been particularly relevant for individuals whose lives or employment require a temporary period outside the UK. In such cases, provided that the reason for the absence falls within the scope of an "important reason," the period of absence will not break the continuous qualifying period.

However, where absences exceed the permitted thresholds and do not fall within a recognised exception, the continuous qualifying period may be treated as broken. This has significant consequences for applicants, as it may require them to re-start the qualifying period from the point at which they returned to the UK. For many individuals, particularly those with complex travel histories, this requirement has presented practical challenges and, in some cases, has resulted in uncertainty as to their eligibility for settled status.

In July 2025, an alternative basis for assessing residence was introduced for the purposes of an application for settled status. Under this approach, a person holding pre-settled status may qualify where they can demonstrate that they have been physically present in the UK for at least 30-months within the most recent 60-month period, equivalent to five years. This development marked an important evolution in the operation of the scheme and reflects a more flexible approach to assessing residence.

This approach represents a shift away from a strictly absence-based assessment to one which considers overall residence in the UK. Rather than focusing solely on whether absences exceed specific limits within defined periods, the alternative method looks at the cumulative time spent in the UK over a five-year period. In doing so, it provides an additional route to eligibility for individuals whose residence patterns do not neatly align with the traditional continuous residence requirements.

The periods of residence relied upon do not need to be continuous, and there is no requirement for the applicant to provide reasons for absences. This is a notable difference from the previous rules, under which the reasons for any extended absences were often critical to determining whether the continuous qualifying period had been maintained. Instead, the assessment is now based on the total amount of time the person has spent in the UK during a five-year period, irrespective of the nature or purpose of any absences.

Applicants may rely on either the continuous qualifying period of residence or the alternative 30-month residence requirement, depending on which is more advantageous in their particular circumstances. For some applicants, the continuous residence route will remain the most straightforward option, particularly where absences have been minimal and within the permitted limits. For others, however, the alternative 30-month requirement may provide a more practical and achievable route to settled status.

In practice, the introduction of this alternative approach provides greater flexibility, particularly for individuals whose residence patterns include extended or frequent absences. This may include individuals who have spent periods abroad for work, family commitments, or other personal reasons, and who may previously have struggled to demonstrate continuous residence in accordance with the strict absence rules. Under the new approach, such individuals may still be able to qualify for settled status where they can demonstrate sufficient overall residence in the UK.

For example, an individual who has spent significant periods outside the UK but has accumulated at least 30-months of physical presence over a five-year period may now be eligible for settled status, even if their absences would previously have broken their continuous qualifying period. This represents a more pragmatic recognition of modern patterns of mobility and acknowledges that residence in the UK may not always be linear or uninterrupted.

It is important to note, however, that applicants are still required to provide evidence of their residence in the UK. This may include employment records, HMRC documentation, tenancy agreements, utility bills, or other official evidence demonstrating physical presence. The evidential burden remains a key aspect of the application process, and applicants should ensure that they retain and organise documentation that clearly establishes their presence in the UK over the relevant period.

In many cases, evidence may be drawn from a combination of sources, and applicants may need to demonstrate residence over a series of discrete periods rather than through a single continuous record. Careful preparation and review of supporting documentation will therefore be essential in ensuring that the application is robust and meets the required standard.

Absence provisions also remain relevant in the context of maintaining status once it has been granted. A person who has been granted settled status may generally spend up to five consecutive years outside the UK without losing that status (for Swiss nationals this is four consecutive years). This provides a degree of flexibility for individuals who may wish to live or work abroad for extended periods while retaining their right to return to the UK.

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For those with pre-settled status, different considerations apply. Extended absences may affect eligibility for settled status and, depending on the circumstances, may also impact the validity of their existing status. It is therefore important for individuals to be aware of the rules governing absence and to consider the potential implications for their longer-term immigration position.

The introduction of the alternative 30-month residence requirement reflects a more flexible and inclusive approach within the Immigration Rules. It recognises that individuals may have complex and varied patterns of residence and seeks to provide a mechanism by which those patterns can still lead to eligibility for settled status. At the same time, the continued availability of the continuous residence route ensures that the framework remains consistent and predictable for those who meet the traditional requirements.

Ultimately, each application must be considered on its individual merits. The Immigration Rules provide the framework within which decisions are made, but the outcome of any application will depend on the specific facts and evidence presented. Applicants should therefore ensure that their period of residence in the UK is clearly evidenced and that they consider carefully which route to eligibility is most appropriate to their circumstances.

In conclusion, the evolution of the residence requirements under the EU Settlement Scheme demonstrates a shift towards greater flexibility while maintaining the overall integrity of the system. By offering alternative pathways to settled status, the framework is better equipped to accommodate the realities of modern life, where movement between countries is increasingly common. For applicants, the key consideration remains the ability to demonstrate sufficient residence in the UK, supported by clear and credible evidence, in accordance with the requirements of Appendix EU.

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