



Department
for Exiting the
European Union

EEA EFTA Separation Agreement

wab@dexeu.gov.uk

EU (Withdrawal Agreement) Bill



OVERVIEW

The UK has agreed a new Brexit deal with the EU. The EU (Withdrawal Agreement) Bill will implement this new deal in UK law, and deliver Brexit by 31st January 2020.

*The **Bill** will: take back control of our laws by reaffirming the sovereignty of Parliament; end vast annual payments to Brussels; protect the Union by ensuring we leave as one United Kingdom; protect the rights of EU citizens, **EEA EFTA** and Swiss nationals living in the UK; and secure an **implementation period** to give businesses certainty.*

Norway, Iceland and Liechtenstein, known as the **EEA EFTA** states, have very close ties with the EU through their membership of the **European Economic Area (EEA)** and their participation in a number of other EU-led initiatives. These close ties have led to a set of arrangements governing key elements of our trade and non-trade relationship with these countries as well as the movement of people between the EU and **EEA EFTA** states.

These agreements will no longer apply to the UK at the end of the **implementation period** (31 December 2020), so we have reached an agreement with the **EEA EFTA** states on how to deal with the separation issues which will arise at this point. This agreement is called the **EEA EFTA Separation Agreement**.



The **EEA EFTA Separation Agreement** ensures that **EEA EFTA** nationals living in the UK and UK nationals living in **EEA EFTA** states can continue contributing to their communities and living their lives broadly as they do now. Those protected by the **EEA EFTA Separation Agreement** will be able to live, work, study and access public services and benefits in the countries in which they currently reside.

The Agreement also covers a subset of the **other separation issues** contained in the UK-EU **Withdrawal Agreement**. It largely mirrors the arrangements in the **Withdrawal Agreement**. The **other separation issues** contained in the **EEA EFTA Separation Agreement** are explained later in this factsheet.

HOW WILL EEA EFTA NATIONALS' RIGHTS BE PROTECTED AFTER EXIT DAY?

The EU (Withdrawal Agreement) Bill gives effect to the **EEA EFTA Separation Agreement** in domestic law, will ensure that individuals can rely directly on these rights in the UK courts, and will implement the rights to equal treatment and non-discrimination for **EEA EFTA** nationals living or working in the UK.

The **EEA EFTA Separation Agreement** provides similar rights to UK nationals living in the **EEA EFTA** states and these will need to be implemented by the **EEA EFTA** states.

The timeline below sets out how the rights of **EEA EFTA** nationals are currently upheld in the UK and how they will be protected both during and after the **implementation period**:

PRE-EXIT DAY

EEA EFTA nationals have the right to reside in the UK through **EEA** law



EXIT DAY

UK leaves the EU and **implementation period** begins



IMPLEMENTATION PERIOD (UNTIL 31 DECEMBER 2020)

During the time limited **implementation period** **EEA EFTA** nationals will have the same rights in the UK as they did before the UK left the EU



GRACE PERIOD

EEA EFTA nationals will be able to apply to the EU Settlement Scheme for a minimum of six months after 31 December 2020

EEA EFTA nationals will be able to rely on their rights under the **EEA EFTA Separation Agreement** during the grace period, or until their application is complete



POST-GRACE PERIOD

EEA EFTA nationals will have secured their rights under the **EEA EFTA Separation Agreement** and can continue living their lives broadly as they do now

The Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) will ensure that the citizens' rights part of the **EEA EFTA Separation Agreement** is fully implemented. The IMA will monitor the implementation of the rights of **EEA EFTA** nationals in the UK from the end of the **implementation period**.

The **EFTA Surveillance Authority** will perform the equivalent role of monitoring compliance in the **EEA EFTA** states for UK nationals living and working there. Further detail on the IMA can be found in the *Independent Monitoring Authority for the Citizens' Rights Agreements factsheet*.

EU SETTLEMENT SCHEME

The **EEA EFTA Separation Agreement** already provides **EEA EFTA** nationals, and their family members, living in the UK at the end of the **implementation period** with the right to continue to stay in the UK. **EEA EFTA** nationals and their family members can apply for residence status through the EU Settlement Scheme.

The EU Settlement Scheme has been set up via the **Immigration Rules** because they are already the mechanism for granting leave to enter or remain in the UK. The EU Settlement Scheme has been fully open since 30 March 2019 and is designed to give effect to the UK's commitments under the **EEA EFTA Separation Agreement**. Further information on the EU Settlement Scheme, including its operation in a no-deal scenario, can be found at gov.uk.

RETENTION OF CRIMINALITY THRESHOLD

The **Bill** will provide for the continuation of current public policy and public security thresholds for **EEA EFTA** nationals in relation to conduct taking place before the end of the **implementation period**. The UK threshold of behaviour that is not 'conducive to the public good' will apply to conduct taking place after the end of the **implementation period**.

APPEALS

The **Bill** will allow appeals mechanisms to be set up for **EEA EFTA** nationals. This means that **EEA EFTA** nationals will have rights of appeal against various citizens' rights decisions including refusals to grant pre-settled or settled status under the EU Settlement Scheme and decisions to refuse entry to **frontier workers**.

RIGHTS FOR FRONTIER WORKERS

The **Bill** will protect the rights of **frontier workers** from the end of the **implementation period**, by retaining their right to enter and work in the country of their employment (including self-employment). This will apply to **EEA EFTA** nationals who are not living in the UK but are currently working here.

RECOGNITION OF PROFESSIONAL QUALIFICATIONS

The **Bill** will protect **EEA EFTA** professionals living or working in the UK who have a qualification that is recognised, or in the process of being recognised, by the UK before the end of the **implementation period**.

If an **EEA EFTA** national has made an application for recognition of a qualification, but has not received a final decision before the end of the **implementation period**, their application will be completed and they will be able to rely upon the decisions made.

SOCIAL SECURITY COORDINATION

The **Bill** will ensure that citizens who have moved between the UK and the **EEA EFTA** states, or those who have interacted with the social security system of the UK and an **EEA EFTA** state, before the end of the **implementation period** are not disadvantaged in their access to pensions, benefits, and other forms of social security including healthcare cover.

Under the **EEA EFTA Separation Agreement** we will continue to follow the **EEA** social security coordination regulations. Aligning with these rules is essential to the smooth functioning of the system and will ensure that individuals covered by the **EEA EFTA Separation Agreement** do not lose out. The **Bill** will allow us to make sure that our domestic legislation works alongside these rules.

DEVOLUTION

Some aspects of citizens' rights, such as some benefits and the recognition of some professional qualifications where the regulation of the profession is devolved, are devolved in Scotland, Wales and Northern Ireland. The EU (Withdrawal Agreement) Bill confers on the **devolved administrations** powers to make provision within **devolved competence** (as defined in the **Bill**) in relation to social security coordination, mutual recognition of professional qualifications and equal treatment.

OTHER SEPARATION ISSUES

The **Bill** implements **other separation issues** which set out what will happen to ongoing EU law processes at the end of the **implementation period** in a way that provides a smooth transition for individuals and businesses. These **other separation issues** are all related to areas currently governed by EU law.

A subset of these **other separation issues** are also relevant to the **EEA EFTA** states. This is because the **EEA EFTA** states participate in the single market through the **EEA Agreement** and a number of other EU-led initiatives. The arrangements on **other separation issues** with the **EEA EFTA** states largely mirror those that have been agreed with the EU. In the majority of cases, these arrangements could be superseded by future agreements between the UK and the **EEA EFTA** states.

The **other separation issues** covered by the **EEA EFTA Separation Agreement** are:

- Goods placed on the market, including ongoing customs procedures
- Intellectual property
- Ongoing police and judicial cooperation in criminal matters
- Data and information processed or obtained before the end of the **implementation period** or on the basis of the **Withdrawal Agreement**
- Ongoing public procurement and similar procedures
- Ongoing judicial procedures (representation before the **EFTA Court**)

Where a process in one of these areas has started, but is still ongoing at the end of the **implementation period**, the **EEA EFTA Separation Agreement** sets out the specific arrangements that should apply.

In many of these areas, this means that EU law will continue to apply directly for processes that began before the end of the **implementation period** to allow them to finally conclude. These arrangements mean that there is consistency and greater certainty for individuals and businesses as we leave the EU.

In addition to this, there may need to be some technical changes to the **statute book**. These matters will be dealt with by **secondary legislation**. The **Bill** allows the Government to make relevant changes to the **statute book** when necessary. These arrangements mean that there is consistency and greater certainty for individuals and businesses as we leave the EU. For example, it will be clear which rules apply to a good that is circulating on the market between the UK and EU at the end of the **implementation period**.

OTHER SEPERATION ISSUES AND DEVOLUTION

Some parts of the **other separation issues** are in areas of law devolved to Scotland, Wales and Northern Ireland. **Devolved administrations** will have the ability to make changes to their own legislation where required.

KEY TERMS

ACT OF PARLIAMENT

An Act of Parliament is a law that both Houses of Parliament have agreed to and which has received Royal Assent. It is enforced in all the areas of the UK where it is applicable.

BILL

A proposal for a new law or an amendment to an existing law that has been presented to Parliament for consideration. Once agreed and made into law, it becomes an Act.

DEVOLVED ADMINISTRATIONS

These are the Scottish Government, the Welsh Government and the Northern Ireland Executive.

DEVOLVED COMPETENCE

The areas in which the devolved legislatures are responsible for making laws ('legislative competence') or the devolved administrations are responsible for governing or making secondary legislation ('executive competence').

EEA EFTA SEPARATION AGREEMENT

An international treaty between the UK and **EEA EFTA** countries (Norway, Iceland and Liechtenstein) that sets out the respective rights and obligations of all parties following the UK's withdrawal from the EEA.

EEA EFTA

The EFTA states who are party to the EEA Agreement - Norway, Iceland and Liechtenstein.

EFTA Court

The EFTA Court deals with matters relating to the EEA EFTA States in a similar way as the Court of Justice of the European Union does for EU Member States.

EFTA SURVEILLANCE AUTHORITY

Monitors compliance with the EEA Agreement in Norway, Iceland and Liechtenstein allowing them to participate in the EU's single market.

EUROPEAN ECONOMIC AREA (EEA)

The EEA includes EU countries and also Norway, Iceland and Liechtenstein. It allows them to be part of the EU's single market.

EUROPEAN COMMISSION

The Commission is the main executive body of the EU. It has general executive and management functions. It can negotiate international agreements on behalf of the EU and represents the EU in international organisations. The Commission oversees and enforces the application of Union law, in particular by initiating infraction proceedings where it considers that a Member State has not complied with its EU obligations.

EUROPEAN FREE TRADE ASSOCIATION (EFTA)

EFTA is a regional trade organisation consisting of Switzerland, Norway, Liechtenstein and Iceland.

FRONTIER WORKER

A person who lives in one state but works in another. For example, a Norwegian who lives in Norway yet spends four days per week working in the UK. They would not be resident in the UK and would not be protected by the right to reside.

IMMIGRATION RULES

Derived from the 1971 Immigration Act, this piece of secondary legislation is the mechanism for granting leave to enter or remain in the UK, for those who require it.

IMPLEMENTATION PERIOD

Time-limited period following the point at which the UK leaves the EU. During this period, EU law will continue to apply in the UK subject to the terms set out in the Withdrawal Agreement.

OTHER SEPARATION ISSUES

This refers to 13 ongoing processes which will need to be 'wound-down' at the end of the implementation period to ensure a smooth exit from the EU.

SECONDARY LEGISLATION

Legal instruments (including regulations and orders) made under powers delegated to Ministers or other office holders in Acts of Parliament. They have the force of law but can be disapplied by a court if they do not comply with the terms of their parent Act. Also called subordinate or delegated legislation.

STATUTE BOOK

The body of legislation that has been enacted by Parliament or one of the devolved legislatures and has effect in the UK.

WITHDRAWAL AGREEMENT

The international agreement between the UK and the EU that sets out the respective rights and obligations of both parties following the UK's withdrawal from the EU.



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