

Remain in France Together

Bitesize Guide



Legal residence under the Withdrawal Agreement

This guide covers all you need to know about being legally resident in France in order to be covered by the withdrawal agreement.

British Citizens are now third country nationals but until the end of 2020 we retain free movement rights. If we exercise those rights before the end of 2020 we will retain certain protections under the terms of the [Withdrawal Agreement](#)¹ as long as we continue to meet the criteria. Once we attain permanent residence rights, we don't lose those rights unless we are absent from the state we held them in for a continuous period of five years.

Who can 'exercise' these rights?

Article 10 of the Withdrawal Agreement defines the personal scope, with Article 9 giving general definitions, but the gist is that it covers anyone who exercised their right to reside under Union law, or their right as a frontier worker – and their family members – before the end of the transition period, which is the end of 2020, unless an extension is agreed. Those who have exercised their rights also have the right for their family members to join them immediately or after the end of the transition period.

How?

A British Citizen and their family members are entitled to visit France for up to 3 months with no formalities other than holding a valid passport (though third-country national family members may need a visa, which should be easily obtained and free of charge). To stay longer than 3 months they need to meet the residence criteria under Union law.

A common question now, with the transition period underway, is how do you establish that you are resident in France rather than just visiting for up to 3 months? The answer is to meet the residence criteria as quickly as you can and gather proof of doing so. This way, when the time comes to apply for a residence permit under the terms of the Withdrawal Agreement, you will have everything to hand that you need.

What are the residence criteria?

The relevant Union law is still the freedom of movement directive, Directive 2004/38/EC. Chapter III of that defines the right of residence and, since we are interested in the right to stay longer than 3 months, Article 7 is the relevant part of that Chapter.

Article 7 states that:



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All Union citizens shall have the right of residence on the territory of another Member State for a period of longer than three months if they:

- a) are workers or self-employed persons in the host Member State
- b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State
- c) are enrolled at a private or public establishment, accredited or financed by the host Member State on the basis of its legislation or administrative practice, for the principal purpose of following a course of study, including vocational training
- d) have comprehensive sickness insurance cover in the host Member State and assure the relevant national authority, by means of a declaration or by such equivalent means as they may choose, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence
- e) are family members accompanying or joining a Union citizen who satisfies the conditions referred to in points (a), (b) or (c).

Proof that we meet the criteria

France hasn't historically required EU Citizens to register as resident when they stay beyond 3 months or to hold a residence permit. They are nonetheless obliged to issue an EU Citizen with a permanent resident card if the citizen requests one once they become eligible after being continually legally resident for the qualifying five year period.

However, to access any social security benefits in France e.g. to join the healthcare system or claim family benefits, you do need to fit the residence criteria – which means that many of us already have the proofs of your right to stay that they tend to ask for.

Workers

For workers, establishing residence rights is straightforward because they have proof of employment (work contract) or self-employment (business registration) and will have healthcare cover via their cotisations (attestation of rights from whoever provides their healthcare cover) and simply need to add proof of where they live.

Students

Students in this case refers those who exercise treaty rights as students, rather than a family member of a worker or self-sufficient person who is a student.

Students have a student card and certificate of scolarity, to prove they are in education. They will need healthcare cover and proof of sufficient resources but it's still pretty straightforward to prove that they are exercising their rights and to document an ongoing record of residence.



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Self sufficient

The more complicated category of resident is one who is self sufficient and not economically active, whether before or after state pension age.

It's more complicated because this is the category of EU Citizens who aren't obviously tied to one member state or another and who may have homes in more than one member state, or in the UK and a member state. Up to now they have been free to move around without formalities so what's needed is to prove that France is their principal residence before the end of the transition period

Stable residence

All categories need to prove they have a stable residence, as in somewhere stable to live, but this is more important for those who are under the self sufficient category, simply because they have no other ties to prove they are exercising treaty rights.

If you own your own home then a copy of your title deeds would prove that you have a stable residence available to you.

If you are renting, a copy of your tenancy agreement would prove that you have a stable residence IF it's a standard tenancy agreement for 12 months if it's a furnished rental or 3 years if unfurnished.

A temporary residence in holiday accommodation, such as a gîte, has no security of tenure and so could be unlikely to be accepted as proof of stable residence any more than would proof of living in a mobile home on a park that does not allow full year round residence

It's not a given that such temporary residences wouldn't be accepted as proof that you moved here but it's safer to provide proof of a stable residence.

There is a separate bite-size guide available on our website for those living in accommodation that does not have a conventional address.

Proof of actual residence

Once you have proof that a stable residence is available to you the next requirement is to prove you are actually living in it.

The usual proof of this is a utility bill from that address which shows normal usage for a full time resident. When you come to request permanent residence rights you will often be asked to provide utility bills for two periods in each year for five years in a row so your utility bills are a good thing to keep efficiently filed.

For those who already have a home in France which has previously been a holiday home while you've mainly lived elsewhere, you should inform your insurance company that you are now resident so that your habitation insurance will change to that of a resident rather than a second home owner.

You should also change all your bills, whether for property taxes or utilities, to have a billing address of that house rather than any other address. A utility bill is no use as proof of residence if it's sent to a different address than the one you claim to be resident in.

Beware Couples would be wise to make sure bills show both of their names, to ease proof of residence for each person, just in case the idea of families being able to apply together doesn't go as well as it should.



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Healthcare

All residents have to have comprehensive healthcare cover and proof of this will be via an attestation of your rights from your healthcare provider or a copy of your private healthcare insurance policy.

For workers, healthcare is provided via their (self) employment cotisations.

For students, this may have been via an EHIC card or via private healthcare cover or via membership of the student healthcare scheme, which has now been transferred to CPAM.

For state pensioners, Incapacity benefit/ESA claimants, cross border workers and dependants of cross border workers this may be via a UK issued S1.

If you are entitled to an S1 then you can obtain that and register it fairly quickly with CPAM. If you aren't then you need to contact the relevant UK department to obtain a letter which explains that you are not entitled to an S1 so that you can join the French healthcare system after three months of residence and get that crucial attestation of your rights.

For those who can't join the healthcare system immediately because they are not working and aren't entitled to an S1, you need proof of healthcare cover to have the right to stay

Unfortunately, you can't join the French healthcare system until you've been here for three months so you will need full private healthcare insurance until you are accepted into the state system.

France has often accepted EHIC cover as proof of initial healthcare provision for a carte de séjour application but this isn't really valid because your entitlement to use an EHIC card

issued by the UK ends as soon as you no longer reside there. The safest action, especially in these latter days of establishing rights under the withdrawal agreement, is to obtain that comprehensive private healthcare cover.

Sufficient resources

Workers aren't subject to the condition of having sufficient resources as long as their work is genuine and effective and not marginal or ancillary.

Students

Students are expected to be self-sufficient but often all that is required is an attestation that they are.

Self-sufficient people usually do have to prove their resources. The terms of the withdrawal agreement are the same as those which apply to EU Citizens. A member state can't require more income than the minimum social security threshold – basically you have to have just enough income to preclude you from being able to claim income support type benefits.

In France this is the RSA level of income for people under age 65 and the ASPA level of income for those over age 65, at the relevant amount for your family composition. An allowance can be added to your resources if you live rent or mortgage free.

Usually you need to prove that your resources are stable. For instance, whereas some member states accept a given lump sum in the bank as proof of resources, this kind of proof hasn't always been accepted in France,



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because you might easily spend it and run out of money before your first five years are over.

If a lump sum is large enough for the investment income from it to be enough to meet the minimum income required, or to last you until a later date at which you will be in receipt of a stable income such as a pension, it may be acceptable.

However, even if you are given a 5 year temporary residence permit based on this, when it comes to applying for your permanent residence permit they could ask for proof that this lump sum actually lasted for the five year qualifying period.

Once you have completed the five year qualifying period you have permanent residence rights with no ongoing conditions and so no further need to prove resources or healthcare cover.

Tax

Once you move to France with the intention of staying and retaining residence rights you need to be prepared to fulfil your obligations to France with regard to your tax declarations.

Initially you should let HMRC know that you have moved to France to live and this will enable you to ensure that any UK income which is no longer taxable in the UK can be paid to you gross.

This will affect payment of private pensions, state pension, rental income (you need to register as an overseas landlord so that your lettings agency or tenant doesn't have to withhold tax from your rent), other investment income, interest on savings etc. You may find you have to reclaim tax paid in the UK while the paying institutions catch up with your new tax residence status.

In the May following your arrival you can print off a tax declaration from the government tax site, or obtain one from your local main tax office, and submit a declaration of your global income. All income and gains are declared in France and the UK/France double taxation convention (which is unaffected by the exit of the UK from the EU) determines where it is actually taxable. Your income may not be taxable in France, but it will be used to push any income which is taxable here into a higher French tax bracket.

Note that if it's decided, due to the double taxation treaty, that your main tax residency isn't France this doesn't affect your residence rights under the freedom of movement directive or withdrawal agreement, which have their own rules, unconnected to tax residency.

Once you have made your first tax declaration you have a new valuable proof of continuous residence in the form of your avis d'impôts – a document often requested in France and which will be required to prove continuous residence when you come to apply for permanent residence rights (or naturalisation) so this is another document you need to file carefully.

The tax d'habitation bill you get after your first tax return is made will also prove that you are resident because it will show details from your tax return such as your RFR (revenu fiscal de reference – taxable revenue) and the number of tax parts you have. The good news is it will also show a discount only available to residents.



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Maintaining your rights

To retain rights under the withdrawal agreement you need to continue to be resident after the end of the transition period. For your first five years you cannot leave France for more than six months per year. There are some exceptions for special circumstances.

Once you have completed this period you qualify for permanent residence status. With this status there are no ongoing conditions related to resources or healthcare cover. Permanent residents retain their rights under the Withdrawal Agreement as long as they do not have a continuous absence of five years.

References

1. The Withdrawal Agreement
Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840655/Agreement_on_the_withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union_and_the_European_Atomic_Energy_Community.pdf
2. EU guide to RSA income support in France
<https://ec.europa.eu/social/main.jsp?catId=1110&langId=en&intPageld=4541>

Disclaimer

This is one of a series of guides and information sheets produced by Remain in France Together (RIFT). RIFT is a statutory association governed by French law and managed and run by volunteers. It exists to uphold the rights of British citizens living in, or moving to, France affected by the UK withdrawal from the EU.

The information is for general guidance and does not constitute legal advice. It is offered free for personal, non-commercial use.

The main source of information to keep up-to-date with developments in citizens' rights is our website <https://www.remaininfrance.fr/>

When using our printed guides, you should check the website to make sure that you have the latest version.

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