

## EU SETTLEMENT SCHEME: FAMILY MEMBERS OF QUALIFYING BRITISH CITIZENS SERVING IN UK ARMED FORCES

### Key Points:

Although the deadline for most people to apply to the [EU Settlement Scheme \(EUSS\)](#) was 30 June 2021, family members of a qualifying British citizen serving in UK Armed Forces might still be able to apply to the Scheme if they are accompanying the SP on a posting within an EU or EEA member state.

This does not apply to family members accompanying British citizens serving in UK Armed Forces in the Sovereign Base Areas (SBA) of Dhekelia and Akrotiri in Cyprus. To accompany British SP on assignment to the UK they will be required to apply through normal [Immigration Rules Appendix Armed Forces](#). Further guidance is provided below.

Applications for EUSS family permits and to the EUSS itself do not carry any fees.

Where family members are required to apply for an Armed Forces visa to accompany SP to the UK, visa fees will be paid from public funds in accordance with JSP 752 chap 9.

Family members accompanying British citizens serving in UK Armed Forces who are assigned to the UK from overseas must not travel until they have appropriate UK entry clearance in place.

### Guidance: Summary

The deadline for most people to apply to the [EU Settlement Scheme \(EUSS\)](#) was 30 June 2021. However, family members of a qualifying British citizen serving in UK Armed Forces might still be able to apply to the Scheme if they are accompanying the SP on a posting within an EU or EEA member state, or Switzerland. To do so:

- The SP must have been on assignment for more than 3 months by 31 December 2020.
- The family relationship must have formed before the UK's exit from the EU at 23:00 GMT (midnight CET) on 31 January 2020 and fall into one of the following categories:
  - Spouses/civil partners (including where the marriage/civil partnership took place after 31 January 2020 but they can demonstrate they were in a durable partnership before that date).
  - Durable partners<sup>1</sup> (that is unmarried partners who have lived together in a relationship akin to a marriage or civil partnership for at least 2 years or where there is other significant evidence of the durable relationship).

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<sup>1</sup> SP should note that the Home Office's definition of 'durable partners' differs to the definition used by the MOD for Established Long Term Relationships for eligibility to SFA. For the purposes of the EUSS family members must meet the Home Office definition.

- Children under the age of 21 of a qualifying British citizen or of their spouse or civil partner, including those born or adopted after 31 January 2020. Children over the age of 21 can also qualify if they can demonstrate dependency.
- Dependent parents of a qualifying British citizen or of their spouse or civil partner.

### **How to apply:**

The family member will first need to apply for an [EUSS family permit](#) in order to enter the UK with the qualifying British citizen. Once in the UK they can then apply to the EUSS.

Family members who are not eligible for entry in the UK with a EUSS Family Permit or for the EUSS itself must apply through [Immigration Rules Appendix Armed Forces](#) if they wish to accompany British citizens serving in UK Armed Forces to the UK.

### **When to apply:**

Eligible family members have until 23:00 GMT on 29 March 2022 to apply for an EUSS family permit to return to the UK with SP who are qualifying British citizens.

They can apply after 29 March 2022 if they can show 'reasonable grounds' for not returning to the UK by then, such as medical reasons or coronavirus restrictions.

Eligible family members also have until 23.00 GMT on 29 March 2022 to apply from within the UK to the EUSS.

However, family members of a qualifying British citizen who are granted an EUSS family permit, which they applied for by 29 March 2022 (or after that date where they can show 'reasonable grounds' for not returning to the UK by then), will be considered to have 'reasonable grounds' for returning to the UK and applying here to the EUSS after that deadline. They should apply to the EUSS as soon as they reasonably can after their return to the UK.

Please see the paragraph 'Reasonable Grounds for Post-Deadline Applications' in Full Guidance (below) for more detail about what would constitute 'reasonable grounds' in an Armed Forces context.

### **Sovereign Base Areas in Cyprus:**

This guidance does not apply to family members of British citizens serving in UK Armed Forces stationed in Cyprus. They are unable to return to the UK by applying for an EUSS family permit or to apply to remain in the UK under the EUSS. The reason for this is explained in the Full Guidance (below).

To accompany British citizens on assignment to the UK family members must apply through [Appendix Armed Forces](#).

## FULL GUIDANCE

### EU Settlement Scheme: family members of qualifying British citizens serving in UK Armed Forces

#### ***Applying to the EU Settlement Scheme as the family member of a qualifying British citizen***

In certain circumstances, where a British citizen has returned to the UK with a foreign national family member who resided with them in an EU or EEA Member State (MS) or Switzerland, the family member can apply under the EU Settlement Scheme (EUSS) for the immigration status they need to remain in the UK.<sup>2</sup> These are often described as ‘*Surinder Singh*’ cases after the Court of Justice of the European Union judgment of that name. In Appendix EU to the Immigration Rules, which governs the EUSS, they are defined in Annex 1 as a ‘family member of a qualifying British citizen’.

Under the definition in Annex 1 to Appendix EU of a ‘qualifying British citizen’, the British citizen must have exercised their free movement rights under EU law – as a worker, self-employed person, student or self-sufficient person – for more than 3 months in an EU or EEA MS (other than the UK, while it was a MS) or Switzerland, or had a right of permanent residence in that country. They must have met that requirement before the end of the EU exit transition period at 23:00 GMT (midnight CET) on 31 December 2020 and immediately before returning to the UK with the family member.

The family member will need to apply for an EUSS family permit (under *Appendix EU (Family Permit) to the Immigration Rules*) to be able to return to the UK with the British citizen and apply here to the EUSS. More information is available at: [Apply for an EU Settlement Scheme family permit to join family in the UK: Apply if you're living outside the UK with a British citizen - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/apply-for-an-eu-settlement-scheme-family-permit-to-join-family-in-the-uk)

Where a non-British family member of a foreign or Commonwealth member of UK Armed Forces wishes to return to the UK, they will need to make an application under [Appendix Armed Forces](#). This includes family members of Irish citizens<sup>3</sup>.

#### ***EU and EEA MS and Switzerland***

Under the definition of a ‘qualifying British citizen’ in the EUSS and EUSS family permit rules, service as a member of UK Armed Forces (as defined in the Armed Forces Act 2006) in an EU or EEA MS or Switzerland can satisfy the conditions of being a ‘worker’ for the purposes of assessing whether the British citizen is a ‘qualifying British citizen’.

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<sup>2</sup> They will generally be eligible initially for ‘pre-settled status’ under the EUSS (5 years’ limited leave to remain), with the scope to apply again for ‘settled status’ (indefinite leave to remain) as soon as they are eligible for it, generally after 5 years’ continuous residence in the UK. The EUSS also enables EEA and Swiss citizens resident in the UK by the end of the transition period, and their family members, to obtain the immigration status they need to continue living in the UK, in line with the Citizens’ Rights Agreements.

<sup>3</sup> Irish citizens themselves can move freely and reside in the UK as set out in the [Common Travel Area](#) guidance.

This is reflected in the published guidance for the EUSS family permit, which is available at [EU Settlement Scheme Family permits.docx \(publishing.service.gov.uk\)](#) and the published EUSS guidance for this category, which is available at: [EU Settlement Scheme: Family member of a qualifying British citizen](#).

***Deadline for family members of a qualifying British citizen to come to the UK and apply to the EUSS***

The following information is relevant to foreign national family members of those British citizens serving as a member of UK Armed Forces in an EU or EEA MS or Switzerland before the end of the transition period and who are therefore eligible to apply for an EUSS family permit to return to the UK with the British citizen and then apply to remain here under the EUSS.

Eligible family members of a qualifying British citizen can be either EEA or non-EEA citizens. The family relationship must have formed before the UK's exit from the EU at 23:00 GMT (midnight CET) on 31 January 2020 and fall into one of the following categories:

- Spouses/civil partners (including where the marriage/civil partnership took place after 31 January 2020 but they can demonstrate they were in a durable partnership before that date)
- Durable partners<sup>4</sup> (that is unmarried partners who have lived together in a relationship akin to a marriage or civil partnership for at least 2 years or where there is other significant evidence of the durable relationship)
- Children under the age of 21 (including grandchildren or great-grandchildren) of a qualifying British citizen or of their spouse or civil partner, including those born or adopted after 31 January 2020. Children over the age of 21 can also qualify if they can demonstrate dependency
- Dependent parents (including grandparents or great-grandparents) of a qualifying British citizen or of their spouse or civil partner

Under transitional arrangements announced by the UK in April 2019 to enable this category to continue for a period to rely on free movement provisions, eligible family members of a qualifying British citizen have until 23:00 GMT (midnight CET) on 29 March 2022 to apply for an EUSS family permit to return to the UK with the qualifying British citizen. They can apply after 29 March 2022 if they can show 'reasonable grounds' for not returning to the UK by then, such as medical reasons or coronavirus (COVID-19 restrictions).

More information is available at: [Apply for an EU Settlement Scheme family permit to join family in the UK: Apply if you're living outside the UK with a British citizen - GOV.UK \(www.gov.uk\)](#)

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<sup>4</sup> SP should note that the Home Office's definition of 'durable partners' differs to the definition used by the MOD for Established Long Term Relationships for eligibility to SFA. For the purposes of the EUSS family members must meet the Home Office definition.

EUSS family permit applications are considered as soon as possible and in strict date order of receipt. Each case is considered as quickly as possible and on its individual merits, but processing times can vary depending on the volume and complexity of applications.

29 March 2022 is also the deadline for this category to apply in the UK to the EUSS. However, those family members of a qualifying British citizen who are granted an EUSS family permit, which they applied for by 29 March 2022 (or after that date where they can show 'reasonable grounds' for not returning to the UK by then), will also be considered to have 'reasonable grounds' for returning to the UK and applying here to the EUSS after that deadline. They should apply to the EUSS as soon as they reasonably can after their return to the UK.

An application to the EUSS in this category has to be made on the relevant paper application form. More information about the process is available at: [Apply to the EU Settlement Scheme \(settled and pre-settled status\): Apply to the EU Settlement Scheme - GOV.UK \(www.gov.uk\)](#)

Family members who enter the UK on an EUSS family permit have the right to work and to access benefits and services to which they are entitled. These rights will continue if they make an in-time valid application to the EUSS (including where they have 'reasonable grounds' for missing the 29 March 2022 deadline) until the point it is finally determined. They will receive a certificate of application evidencing these rights.

If the family member is a non-EEA national who would otherwise require a visa to enter the UK (a "visa national"), they will require a valid visa or visa exemption document (a valid EUSS family permit or UK-issued residence card) if they wish to travel outside the UK pending the outcome of their application. Document requirements to travel in and out of the UK for those with a pending EUSS application or EUSS status is available at: [Entering the UK under the EU Settlement Scheme and EU Settlement Scheme family permit - GOV.UK \(www.gov.uk\)](#)

### **Reasonable Grounds for Post-Deadline Applications**

Family members must submit a valid EUSS family permit application by 29 March 2022. Where a family permit is issued, they can enter the UK within the validity of that family permit, which is generally 6 months from date of issue. They can then apply to the EUSS once they arrive in the UK and, provided they do so as soon as they reasonably can, they will be treated as having 'reasonable grounds' for applying to the EUSS after the 29 March 2022 deadline.

Where SP, therefore, have an Assignment Date for return to the UK within 6 months of the 29 March 2022 deadline, that is by 29 September 2022, their relevant accompanying family members should be able to make a valid EUSS family permit application by 29 March 2022 and rely on these arrangements.

### ***Sovereign Base Areas in Cyprus***

The Sovereign Base Areas (SBAs) of Akrotiri and Dhekelia in Cyprus are a British Overseas Territory, rather than an EU or EEA MS. Therefore, service as a member

of UK Armed Forces in the SBAs cannot demonstrate the exercise by a British citizen of their free movement rights in an EU or EEA MS. This approach to the SBAs in Cyprus is consistent with service as a member of UK Armed Forces in other British Overseas Territories or non-EEA territories.

The foreign national family members of British citizens serving as a member of UK Armed Forces in the SBAs are unable to return to the UK by applying for an EUSS family permit or to apply to remain here under the EUSS. [Appendix Armed Forces](#) is the correct route for them where they are eligible.<sup>5</sup> Specific guidance for the partners and children of HM Forces can be found at <https://www.gov.uk/government/publications/hm-forces-partners-and-children>.

Family members accompanying British citizens serving assigned to the UK must not travel until they have appropriate UK entry clearance in place. If they enter the UK as a visitor or without UK immigration status they will not be able to make an application to Appendix Armed Forces from within the UK.

### Further Guidance

Home Office guidance for [EU Settlement Scheme Family permits.docx \(publishing.service.gov.uk\)](#).

Home Office guidance [EU Settlement Scheme: Family member of a qualifying British citizen](#).

Home Office guidance [Immigration Rules Appendix Armed Forces](#).

### Further Queries

Please contact:

SO2 RC Family Support [alistair.boon100@mod.gov.uk](mailto:alistair.boon100@mod.gov.uk); or  
[rc-pers-famsp-0mailbox@mod.gov.uk](mailto:rc-pers-famsp-0mailbox@mod.gov.uk)

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<sup>5</sup> [Immigration Rules Appendix Armed Forces - Immigration Rules - Guidance - GOV.UK \(www.gov.uk\)](#)