

Benefits Bulletin

EEA Nationals and the Share Code...

4th November 2021

Issue **7** [2021]

1. Introduction

We are now seeing cases of EEA Nationals who, in the wake of Brexit, have had their entitlement to Social Security benefits / tax credits ended.

We understand that this is because either:

- the Department for Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC) are data matching Social Security benefit and tax credit records with records from the European Union Settlement Scheme (EUSS) and identifying that the person receiving benefits / tax credits does not have SETTLED STATUS or PRE-SETTLED STATUS; or
- the individuals concerned are not evidencing their SETTLED STATUS or PRE-SETTLED STATUS when being asked to do so.

We are seeing other cases where EEA Nationals are being refused Social Security benefits / tax credits upon application. This is because they have not obtained SETTLED STATUS or PRE-SETTLED STATUS, or because their application under the EUSS led to an award of PRE-SETTLED STATUS.

In such later cases, whilst those who have PRE-SETTLED STATUS have the right to reside in the United Kingdom, it should not be forgotten that in itself PRE-SETTLED STATUS does not necessarily afford people free access to Social Security benefits / tax credits.

How do you want to receive a security code?

We will send a code to your phone or email address.

Applicant

- Send me a text message (SMS) to +447 *****
- Send me an email to *****@gmail.com

Continue

The **SHARE CODE** system is an online facility which enables those with SETTLED STATUS and PRE-SETTLED STATUS to obtain a 'SHARE CODE' which they may then provide to the DWP / HMRC who may use it to verify their immigration status.

Share code

2FF 9YAW R112

This code lasts for 30 days - it will expire on 24 October 2020.

The system may not only be used for Social Security benefit / tax credit purposes but also in other situations. For example, when a person is seeking to demonstrate their immigration status for the purposes of obtaining employment, housing or healthcare.

Note: Herein, by ‘**EEA National**’ we mean a person who is a national of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Romania. For this purpose, we also include in the definition a Swiss National.

Anyone affected by the issues covered in this Benefits Bulletin should seek specialist advice if they have lost or been refused Social Security benefits / tax credits and they are unsure how to proceed.

2. Share Code...

The new SHARE CODE system is designed to enable those with SETTLED STATUS or PRE-SETTLED STATUS to access a ‘share code’ which they can then pass on to the DWP / HMRC who can in turn, use it to verify their immigration status for Social Security benefit / tax credit purposes.

A person can access the SHARE CODE system by going to this [LINK](#). When accessing the system people will need:

- details of the identity document they used when they applied to the EUSS e.g. their passport, national identity card, or biometric residence card or permit
- their date of birth
- access to the mobile number or email address they used when they applied to the EUSS.

The system may not only be used for Social Security benefit / tax credit purposes but also in other situations. For example, when a person is seeking to demonstrate their immigration status for the purposes of obtaining employment, housing, hospital treatment or when opening a bank or building society account.

As may be seen from the graphics on page 1, once in the system, a person can ask for their SHARE CODE to be provided to them by text message or email. Moreover, once it has been provided the SHARE CODE lasts for 30 days.

Why are you proving your status?

I want to:

- work in the UK
- get hospital treatment
- claim benefits or tax credits
- get homelessness assistance or council housing
- open a bank or building society account
- get a loan or credit card
- or
- another reason

People cannot only use the system to access a SHARE CODE. It is understood that a person can use the system to also check their immigration status and check what rights they have to work, rent accommodation and claim benefits whilst living in the United Kingdom.

3. The Data Match

It is understood that there has been a data matching exercise to identify EEA Nationals who have been getting Social Security benefits / tax credits and who have not applied to the European Union Settlement Scheme (EUSS).



Moreover, we understand that following the 30th June 2021 deadline for applications to the EUSS, when it has been identified that a person has not made such an application, they have been issued with notices advising of their need to apply. Following the deadline, the DWP and HMRC have not simply stopped people’s benefits / tax credits. Instead, they have, at least initially, continued to make payment but in the form of an extra-statutory payment allowing people time to apply to the EUSS.

In cases where an EUSS decision has been pending, then people have been advised to notify the DWP / HMRC of their 16-digit EUSS application number (not a SHARE CODE number), in which case payment of their Social Security benefits / tax credits have been allowed to continue until the outcome of their application (including the outcome of any appeal) is known.



In **Universal Credit** cases, people whose immigration status is unclear have been sent a message advising them that they needed to use their Journal to confirm their immigration status (i.e. whether they had SETTLED STATUS or PRE-SETTLED STATUS or some other valid immigration status) by **24th October 2021** and if they did not do so then their Universal Credit payments would be suspended.

The message confirmed that those people who had not applied to the EUSS should do so. The message confirmed that those who did confirm their status would hear in due course whether they could continue to receive Universal Credit.



4. The Advice...

There may indeed be cases in which a person may wish to obtain specialist immigration advice. However, the 'best advice' to those potentially affected by this appears to be:

- to make sure they have applied to the European Union Settlement Scheme - see 6. The EUSS on page 5 for more information
- that if the DWP / HMRC or local authority contacts someone asking them for details of their immigration status, that they confirm this to them / provide them with a SHARE CODE where possible
- that if the DWP / HMRC or local authority contacts them asking for their details of their immigration status, and they are waiting for a decision from the EUSS then they confirm this.

Moreover, if someone has had any Social Security benefit / tax credit entitlements withdrawn or refused then they should seek specialist advice if they are unsure on what to do.



If a person is in need of specialist immigration advice in Wolverhampton, then they may go to the [Refugee and Migrant Centre](#) for this. Alternatively, they may go to this [LINK](#) to find somewhere alternate to go.

5. Background

In [Benefits Bulletin 4: EEA Nationals and Benefits \(2021\) - 22.6.2021](#) we brought news on how, because of Brexit, the rules for claiming Social Security benefits had changed for EEA Nationals living in the United Kingdom.

We explained that EEA Nationals who were living in the United Kingdom on 31st December 2020 had between 1st January 2021 and 30th June 2021 (the so called ‘**grace period**’) to apply to the European Union Settlement Scheme for SETTLED STATUS or PRE-SETTLED STATUS. The point being that those who failed to do so by 30th June 2021 would be considered to be unlawfully present in the United Kingdom and not entitled to Social Security benefits / tax credits. It was therefore essential that EEA Nationals obtain SETTLED STATUS / PRE-SETTLED STATUS for the purpose of the rights to obtain and/or continue to receive Social Security benefit entitlements.

We pointed out that those:

- with **SETTLED STATUS** could access Social Security benefits in the same way as British Nationals
- with **PRE-SETTLED STATUS** would have limited access to benefits.

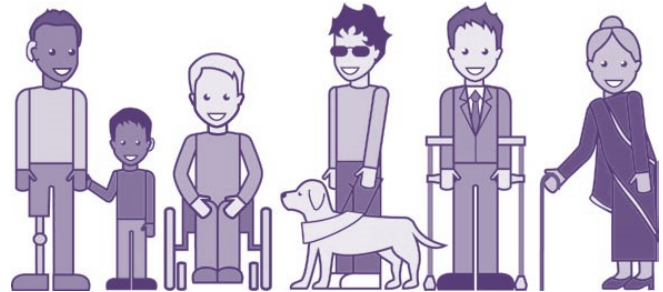
We explained that those with PRE-SETTLED STATUS could find themselves having no entitlement to Universal Credit (or ‘legacy benefits’) unless, for example, they may be considered to be a ‘**worker**’ or ‘**self-employed person**’ or a ‘**family member**’ of such a person.



By ‘**legacy benefits**’ we mean Income-based JSA, Income-related ESA, Income Support, Housing Benefit, Working Tax Credit and Child Tax Credit.



We highlighted the fact that those with PRE-SETTLED STATUS could still access Carer’s Allowance, New Style JSA, New Style ESA, Maternity Allowance and Industrial Injuries Disablement Benefit providing they were able to meet the normal qualifying rules and residency conditions.



Similarly, we explained that those with PRE-SETTLED STATUS could access DLA, PIP and Attendance Allowance providing they could show that they had been present in Great Britain for not less than 104 weeks out of the last 156 weeks prior to their claim.



The other thing we were clear in pointing out was that there were two legal challenges which were arguing, that in essence it was wrong to limit the Social Security / tax credit rights of those with PRE-SETTLED STATUS.

On this question the case of *Fratila v Secretary of State for Work and Pensions* was heard recently and a decision is expected shortly.



In the other case *CG v Department of Communities*, the Court of Justice of the European Union it had already been held that in restricting access to Universal Credit the appellant had not been discriminated against on the basis of her nationality, so the appeal failed.

As soon as we hear news of the judgement in the Supreme Court, we will update you.



6. The EUSS

As previously explained, under the [European Union Settlement Scheme](#) (EUSS) a successful applicant may be granted either:

- **SETTLED STATUS** (Indefinite Leave to Remain) if they have lived in the United Kingdom for 5 years or more; providing them with a permanent right to reside which allows them to continue to live and work in the United Kingdom indefinitely; or
- **PRE-SETTLED STATUS** (Limited Leave to Remain) if they have lived in the United Kingdom for less than five years; providing them with the right to live and work in the United Kingdom for up to five years.

Under the scheme, those who have been granted **PRE-SETTLED STATUS** can apply for **SETTLED STATUS** once they have been living in the United Kingdom for at least 5 years.

Although the deadline for making applications to was 30th June 2021, late applications may still be made.



The Home Office can accept late applications where it is considered that the applicant had '**reasonable grounds**' for missing the deadline. An EEA National who was living in the United Kingdom on 31st December 2020 but who has not yet made an application to the EUSS should consider doing so now.

Anyone making a late application to the EUSS should have protected rights to live and work in the United Kingdom until their application has been determined and any appeal concluded.



THE NUMBERS: Over 6 million people have made an application to the EUSS. Of these, 3.02 million people have been granted **SETTLED STATUS** and 2.44 million people have been granted **PRE-SETTLED STATUS**.

Welfare Rights Service
Specialist Support Team
City of Wolverhampton Council
WRS@wolverhampton.gov.uk