

A GUIDE TO YOUR RIGHTS FOR EEA/EU CITIZENS IN SCOTLAND

Factsheet 3. My Right to Benefits, Housing and Social Work Support

This factsheet provides a brief summary of your rights to access benefits, housing and social work support in Scotland before, during and after the Brexit transition period.

www.civilsocietybrexit.scot

What are my rights now (until Brexit Day*)?

Access to Benefits

- Your right to access many types of benefits (such as Jobseeker's Allowance, Income Support, Employment Support Allowance, Housing Benefit or Universal Credit) depends on whether you pass the **habitual residence test** by proving that you:
 - Have a legal right to live in the UK and claim benefits (the **right to reside** – see Factsheet 1 at www.civilsocietybrexit.scot) and
 - Intend to make your home in the UK or the Republic of Ireland (**habitual residence**)
- If you are relying on worker status to prove your right to reside, you may be asked to prove that your earnings were more than the '**minimum earnings threshold**' (the level at which employees start paying Class 1 National Insurance contributions⁵).
- If you are relying on jobseeker status to prove your right to reside, you must first have lived in the UK for three months before you can establish habitual residence for purposes of claiming certain types of benefits.

Access to Housing

- If you have a **right to reside**, you are eligible for a housing allocation and homelessness assistance from the local authority.
- If you are homeless or at risk of homelessness, you have a right to make a homelessness application. The local authority must provide you with temporary accommodation, whilst they investigate your circumstances and decide whether they must offer you permanent accommodation.
- However, you will be expected to contribute to the costs of your temporary accommodation, and this may be difficult for you if you are not yet eligible for housing benefit because you cannot pass the habitual residence test.

Access to Social Work Support

- You may be entitled to other forms of help from the local authority if you:
 - Are under aged 18 and alone, or at risk (for example, of harm or destitution)
 - Are a care leaver or about to leave care
 - Are a carer for someone else
 - Have children and are unable to give them adequate housing or financial support

5. At present, the 'minimum earnings threshold' is £162/week in 2018/19.

- Require additional support because of a disability, your mental health, your age, or some other vulnerability
- Are at risk of harm or abuse
- **You have a right to ask the local authority for help, no matter what your migration status is.** The local authority has a duty to consider your request, and if necessary, make an assessment of whether or not they must provide you with help and support.
- However, once the assessment has been completed, whether or not you have a **right to reside** may affect whether and how the local authority can provide you with the help and support you may need. See Factsheet 1: My right to reside for more details at www.civilsocietybrexit.scot

What will my rights be during the Brexit transition period (Brexit Day* to 31 December 2020)?

- The UK and the EU have reached agreement in principle that there will be no change to your rights during the Brexit transition period.
- EEA/EU citizens arriving during this period will also enjoy the same rights as those who arrived before Brexit.
- However, the transition period will only come into effect if the **withdrawal agreement** is ratified by both the EU and the UK before 31 October 2019.

What will my rights be after the transition period (after 1 January 2021)?

- The UK Government has not yet published a post-Brexit policy on access to benefits, housing and

- other support for EU/EEA citizens.
- Some matters, such as access to housing are matters devolved to the Scottish Government.
- Other matters, such as access to mainstream benefits, are reserved to the UK Government.
- However, key social work assistance such as access to social work support for children and vulnerable adults, remain available to all residents in Scotland, regardless of where they come from.

How can I find out more?

- Read more about your rights to housing in Scotland, and further details of a housing rights advice line, at the **Shelter Scotland** website here: https://scotland.shelter.org.uk/get_advice
- Read factsheets on access to benefits in Scotland, and details of the welfare rights advice line, at the **Child Poverty Action Group Scotland** website here: <http://www.cpag.org.uk/scotland/factsheets>
- Speak to someone at **Citizens Advice Scotland** – you can find your local advice bureau at: <https://www.cas.org.uk/bureaux>

Last Updated April 2019

www.civilsocietybrexit.scot

Funded by the Legal Education Foundation.



* If the draft withdrawal agreement between EU and UK is approved by the UK Parliament or an alternative deal is agreed by 31 October 2019, a specific date will be designated as Brexit Day. If 'no deal' is agreed by 31 October 2019, the 31 October will be Brexit Day.