

3 years in UK and Islands, EUSS settled status connection

In order to qualify for 'home' fees under this category, all of the following criteria (a) to (d) must be met:

(a) on the **first day of the academic year** you are paying fees for, you must fall into A or B or C:

A. You have settled status under the EU Settlement Scheme.

Take care not to lose your settled status automatically. This will happen if you stay outside the **UK and Islands** for a continuous period of more than 5 years (or 4 years if you are a Swiss national or a family member of a Swiss national).

If you seem to have been missing from the UK and Islands for a number of years, your fee assessor will want to check this with you, even if your digital status says you have settled status.

However, do note: Once you have qualified for this category for one year of your course, the requirement is slightly more flexible for later years of your course. So for later years of your course, it is acceptable if you lose your settled status, as long as you have some kind of leave to remain (or British or Irish citizenship) on the first day of whatever academic year you are paying fees for. This is a special adjustment to the requirement that the regulations make. It is available for academic years that start on or after 1 August 2024.

B. You are someone who meets requirements (i) and (ii):

(i) you had a right of permanent residence under European law in the UK at 10.59pm on 31 December 2020

The most common way a person acquired a right of permanent residence under European law was if they were an EEA or Swiss national, or their accompanying family member, and they lived in the UK for 5 years. The right arose automatically at the 5-year point, there was no need to make any application for it.

Note that anyone who had had a right of permanent residence under European law in the UK in the past was treated as still having it at 10.59pm on 31 December 2020, provided they had not been absent from the UK for more than the 5 years leading up to 10.59pm on 31 December 2020. Any absences before they acquired the right of permanent residence were disregarded when calculating the 5 years.

and

(ii) you are still waiting for a decision on an application you made under the EU Settlement Scheme, and you have a Certificate of Application (it does not matter if you made the EU Settlement Scheme application late, after the deadline).

Or you are waiting for the outcome of an administrative review or appeal about that application (your request for an administrative review or appeal needs to have been made in-time, or accepted by the authorities for consideration despite being outside the time limit), or you are still within the time limit for submitting one.

C. You are an Irish citizen and you meet requirements (i) and (ii):

(i) you are currently *ordinarily resident* in the UK; and

(ii) you don't have settled status under the EU Settlement Scheme, but you would qualify for it if you chose to make an application (this is because unlike other European citizens, Irish citizens don't have to make applications under the EU Settlement Scheme)

The only scenario in which an institution is likely to accept that an Irish citizen counts as someone who would qualify for settled status under the EU Settlement Scheme if they were to choose to apply for it (without actually applying for it) is if:

- At some point in their life they lived in the *UK and Islands* for a 5-year period. It will count as a 5-year period provided they were not absent for more than a total of 6 months in any 12-month period, during the 5 years. But the following exceptions are allowed to that general rule:
 - one single absence which did not exceed 12 months and was for an important reason (such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting)
 - any period of absence on compulsory military service
 - any period of absence on a posting on Crown service (this includes HM Forces) or accompanying a person on a posting on Crown service
 - any period spent working in the UK marine area
 - any periods allowed by the Home Office's 'Coronavirus (COVID-19): EU Settlement Scheme – guidance for applicants' at www.gov.uk/guidance/coronavirus-covid-19-eu-settlement-scheme-guidance-for-applicants

and

- The start of the 5 years was before the end of the Brexit transition period (11pm on 31 December 2020);

and

- Since that 5-year period they have not been absent from the UK and Islands for a period of more than 5 consecutive years.

This is not the only scenario in which an Irish citizen will count as someone who would qualify for settled status under the EU Settlement Scheme if they were to choose to apply for it. But it is probably the only one that an institution will be feel comfortable testing themselves, without asking the Irish citizen to actually make an application to the EU Settlement Scheme for settled status.

(b) you must have been ordinarily resident in the *UK and Islands* for the full three-year period before the *first day of the first academic year of the course*. For example, if your course begins in October 2024 you must have been ordinarily resident in the UK and Islands from 1 September 2021 to 31 August 2024

Note: A person who makes a late application to the EU Settlement Scheme (EUSS) will have any period of residence in the UK and Islands between missing the deadline for the EUSS and making their EUSS application treated as lawful residence, even if it was unlawful. This means the residence can count as 'ordinary residence'.

(c) if the main purpose of your residence for the three-year period was to receive full-time education, you must have been ordinarily resident in the *UK / EEA / Switzerland / the overseas territories* (these include Gibraltar) the day before the start of the three-year period

Tip: if you were in full-time education at some point during the three years, then ask yourself: If I had not been in education, where would I have been? If the answer is that you would have been somewhere in the large area that consists of the UK/EEA/Switzerland/overseas territories anyway, then you meet criterion (c).

(d) you must be ordinarily resident in the *UK* on the *first day of the first academic year of the course*