

DIFFERENCES BETWEEN CURRENT WITHDRAWAL AGREEMENT AND NO DEAL CONTINGENCY LEGISLATION FOR POST-BREXIT RIGHTS OF BRITISH NATIONALS RESIDENT IN FRANCE

| | CURRENT WITHDRAWAL AGREEMENT | NO DEAL (ACT, ORDONNANCE AND DECREE) |
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| 1. Effective date | Day after the end of the transition period (see 2). | Day after no deal Brexit. |
| 2. Grace/transition period | Transition/implementation period begins on day after Brexit and ends (currently) on 31 Dec 2020. All current EU rights retained during this period (including freedom of movement), excluding voting/political rights. | Grace period of 12 months beginning on day after Brexit. Most current EU rights retained during this period, though not freedom of movement or voting/political rights. |
| 3. Scope - who is covered? | British citizens who are legally resident in France on the effective date, even if they arrived after the date of Brexit. | British citizens who are legally resident in France on the effective date. |
| 4. Residence > 5 years | As now: will qualify for permanent residence status after 5 years of legal residence under conditions set out in Directive 2004/38/EC . Periods of residence before and after Brexit is taken into account. | After 5 years of continuous legal residence British citizens will qualify for long term residence status , under EU Long Term Residence Directive . This status applies to all third country nationals, but Britons will acquire it with simplified conditions. Proof of health cover and of resources equivalent to RSA will be required by all applicants, whatever their status. |
| 5. Residence < 5 years | As now: must meet the current conditions set out in Directive 2004/38/EC for legal residence as worker, self-employed, student or non economically active. After 5 years of legal residence (periods before and after Brexit counted) will qualify for permanent resident status. | Based on <i>droit commun</i> (national immigration law) but with simplified conditions. There are 6 different cards , according to status. Categories are: employed on CDI, employed on CDD, self-employed, student, jobseeker and (for anyone not fitting these categories) visitor. |
| 6. Residence - family members | As now: family members already living with a British resident on effective date will retain current rights. | Third country national family members already living with a British resident on Brexit date will apply for a <i>carte de résident vie privée et familiale</i> . Britons who don't/can't qualify for residence in their own right may also piggyback onto a family member's rights and apply for this card. |

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| 7. Type of registration process | Constitutive - status must be applied for. | Constitutive - status must be applied for. |
| 8. Applying for/holding residence card compulsory? | Yes. | Yes. |
| 9. Application window/deadline | Applications must be made within 6 months after the end of transition period ie 31 July 2021. | Applications must be made within 6 months of the date of Brexit. |
| 10. Application process > 5 years | Those already holding <i>carte de séjour permanent</i> will exchange this for new card issued under the WA, in simple procedure requiring identity check and verification of ongoing residence. Those not holding a current <i>CdS permanent</i> will need to apply as now and demonstrate 5 years of legal residence according to their status. Online application form is expected, but applications will be dealt with by préfectures. | Those already holding <i>carte de séjour permanent</i> will exchange this for <i>carte de résident longue durée</i> (CDRLD) issued under the ordonnance and decree, in simple procedure requiring production of passport and current CdS. Those not holding <i>CdS permanent</i> will need to apply for CDRLD. Proof of arrival date in France, of sufficient resources (based on RSA level) and of health cover will be required of all applicants. Online application form is expected, but applications will be dealt with by préfectures. |
| 11. Application process < 5 years | No specific information is included either in the WA or on the official French government sites on this, though we suspect that new applications may be required before 31 July 2021 even if a current CdS is held. | New applications will be required, whether or not a current CdS is held. |
| 12. Fees for residence cards | Free, except for cards replaced following loss or damage. | 119 euros. |
| 13. Legal status after Brexit | Third country national. | Third country national. |
| 14. Permitted absences from France to retain status > 5 years | 5 years. | LTR status is maintained for absences of up to 3 years outside the EU; or up to 6 years outside France but within the EU. |
| 15. Permitted absences from France to retain status < 5 years | 6 months per year. | Not specified in ordonnance or decree. In <i>droit commun</i> absences of a maximum of 6 consecutive months, and a total of 10 months altogether in the |

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| | | first 5 years of residence, are permitted. Awaiting clarification. |
| 16. Change of status (between working / self-employed / non active/student) | Change of status permitted without loss of rights under WA. Family members cannot become full rights holders. | Change of status mostly permitted except that any change from another status to the status of visitor (inactive/retired/other) can only be done under the full conditions contained in <i>droit commun</i> . |
| 15. Right to work | Those already resident and working on effective date will have the right to continue working without a work permit. | Those already resident and working on effective date will have the right to continue working without a work permit. |
| 16. Right to run business | Those already resident and self-employed / running business on the effective date will have the right to continue doing so without a permit. | Those already resident and self-employed / running business on the effective date will have the right to continue doing so without a permit. |
| 17. Professional qualifications acquired before Brexit | Current EU scheme for recognition will continue to apply to those whose qualifications were recognised, or in the process of being so, by the end of the transition period (but only in the host state of residence). | British nationals exercising a profession on the date of Brexit retain the right to have their qualifications to exercise that profession recognised in France. This also applies to those who have applied for recognition before the date of Brexit. |
| 18. Professional qualifications acquired after Brexit | National rules for recognition of third country qualifications apply. | National rules for recognition of third country qualifications apply. |
| 19. Reciprocal health care/S1 scheme | Existing scheme continues for those with S1 form at effective date or those whose competent state remains the UK and therefore who will be eligible for an S1 when they reach state pension age. | UK regulation states S1 scheme will end those who are not receiving “or have applied for” treatment on Brexit date. However, the ordonnance maintains health cover for S1 holders and their dependants for 2 years from Brexit date ‘under the same conditions as an insured under a compulsory French scheme’, pending a bilateral agreement with the UK. |
| 20. State pension uprating | Maintained for life under the WA for those resident on effective date. | UK government commitment only to uprate until 2020 at present. |

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| 21. Aggregation of social security contributions made before Brexit | Existing scheme continues. | UK contributions made before date of Brexit will continue to be aggregated. |
| 22. Aggregation of social security contributions made after Brexit | Existing scheme continues - contributions made after the effective date will be aggregated. | Only UK contributions made within 6 months of the date of Brexit will be aggregated. |
| 23. Continued entitlement to RSA / AAH / prime d'activité | Britons receiving any of these benefits will continue to receive them under the same conditions as an EU citizen until the end of the transition period. No precision is given about future rights but it must be assumed that normal third country national rules will apply (see 24). | Those in receipt of any of these benefits on the date of Brexit will continue to receive them under current conditions for 12 months. After this period third country national rules will apply (see links in row 24 below). |
| 24. New claims for RSA / AAH / prime d'activité | Third country rules will apply (see these links for RSA , prime d'activité and AAH - open the drop down boxes for 'étranger' on each page). | Third country rules will apply (see these links for RSA , prime d'activité and AAH - open the drop down boxes for 'étranger' on each page). |
| 25. Frontier workers | Those working as frontier workers at the effective date will have the right to continue doing so for as long as they retain the status of frontier worker in their state of work. | No specific precision for frontier workers in the ordonnance. Clarification awaited. |
| 26. Future family reunification | Family members (spouse, partner, direct ascendants/descendants who are dependent) living outside the host state on the effective date will have the right to join a person whose rights are protected under the WA, providing the family relationship already existed on the effective date. This applies for the lifetime of the WA rights holder. | Family members wanting to join a resident British citizen after the date of Brexit will be subject to <i>droit commun</i> (national immigration law). Family reunification law applies only to spouses/partners and dependent children and not to ascendants (eg parents). Any family member not covered would have to make their own application under normal third country national immigration law. |
| 27. Right to return to the UK with non-British family | Out of scope of WA. Family members of British citizens returning to UK after end of transition would have to meet UK immigration conditions, including income conditions. Some may benefit, until 29 March 2022 only, from 'Surinder Singh' rights (Section 2 Para A here). | Family members of British citizens returning to UK after date of Brexit would have to meet UK immigration conditions. Some may benefit, until 29 March 2022 only, from 'Surinder Singh' rights (Section 2 Para A here). |

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| 28. Free movement rights | Continue only up to the end of the transition period. After this British residents have the right to travel to another state within Schengen for 90 days out of each 180 days , but this doesn't include the right to reside or work. It is not clear whether the limited mobility rights included in the LTRD will extend to those with permanent residence under the WA. | Continue only up to the date of Brexit. After this British residents have the right to travel to another state within Schengen for 90 days out of each 180 days , but this doesn't include the right to reside or work.. The Long Term Residence Directive includes some basic mobility conditions which may facilitate a move to a second EU state. |
| 29. Reciprocity conditions | The WA is a reciprocal agreement so no further reciprocity conditions demanded. | All the residence and other provisions of the legislation, ordonnance and decree are subject to reciprocity. The ordonnance states that this includes not just the equivalent treatment of French citizens resident in the UK, but also the provisions contained in the ordonnance that covers transport and movement of goods and people . |

Kalba Meadows
British in Europe and Remain in France Together
1 August 2019