

# Citizenship in an independent Scotland



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# Summary

This summary presents the Scottish Government's proposals for citizenship in an independent Scotland. It:

- sets out our vision for an inclusive model of citizenship after independence for people, whether or not they were born in Scotland or define themselves as primarily or exclusively Scottish, and
- describes who would become a Scottish citizen at the point of independence, and who could become a Scottish citizen from then on

These proposals reflect an inclusive and welcoming approach to the entitlement to Scottish citizenship.

The report that follows provides more details on these proposals, an analysis of the evidence that informs them, as well as references to sources.

Scottish citizens would have the right to live and work freely in Scotland. They would also be able to get a Scottish passport.

Most Scottish people right now are British citizens. UK law allows British citizens to hold multiple nationalities. We propose that, after independence, the law in Scotland would allow Scottish citizens to do the same – so people can hold both Scottish and British citizenship if they want, or only one or the other.

Under our proposals, British citizens would not have to become Scottish citizens after independence in order to live and work in Scotland, because Scotland would continue to be part of the Common Travel Area, which includes the UK, Ireland, the Channel Islands and the Isle of Man.

There would be four ways to become a Scottish citizen if Scotland becomes an independent country:

- automatic entitlement on the day of independence
- by birth after independence
- by registering as a Scottish citizen, or
- by applying to become a Scottish citizen

The next section summarises what each of these means. Note that there is also a 'quick guide' to our proposals in the Annex of this paper which describes how these proposals would apply depending on current nationality and other circumstances.

## Ways to become a Scottish citizen

### 1. Automatic entitlement to citizenship

Under the Scottish Government's plans, you would automatically be entitled to Scottish citizenship on the day Scotland becomes independent if you are already a British citizen and you:

- live in Scotland (described in law as 'habitually resident')
- were born in Scotland
- have a parent who was a British citizen born in Scotland, or
- previously lived in Scotland for at least ten years, or five years as a child, with a pro rata calculation for young adults.

If your entitlement to Scottish citizenship is based on your present personal circumstances – you live in Scotland or were born here – you would be able to access services for citizens without needing to do anything else.

If you don't live in Scotland and your entitlement to Scottish citizenship is based on your past circumstances or those of a parent, you would also be able to access such services, although you may be asked to provide evidence of your eligibility.

If you did not want to automatically become a Scottish citizen, you would be able to opt out.

## 2. Children born after independence

Children born in Scotland after independence would automatically be Scottish citizens if at least one of their parents was:

- a Scottish citizen, or
- a British or Irish citizen, or
- “settled” in Scotland under Scottish immigration law

A child born outwith Scotland after independence would automatically be entitled to Scottish citizenship if at least one of their parents is a Scottish citizen.

## 3. Registering as a Scottish citizen

This further right to citizenship would be open to two groups of people:

- British and Irish citizens living in Scotland, and
- children of any nationality living in Scotland who were brought up here

And there would be a further route for anyone wanting to become a Scottish citizen after independence: applying on the basis of the qualifying criteria.

## 4. Applying to be a Scottish citizen

The process of applying to become a citizen of another country is sometimes called “naturalisation.”

A person of another nationality could apply to become a Scottish citizen if they:

- had lived in Scotland for at least five years, and
- had been “settled” in Scotland for at least 12 months

## Passports

Scottish citizens would be entitled to hold a Scottish passport after independence. You would not need to hold a Scottish passport if you do not want one. You would be able to get a Scottish passport through the same kind of application process that exists now for British citizens who want a British passport.

## The Common Travel Area and the European Union

Scotland is part of a Common Travel Area on these islands. As part of the Common Travel Area after independence, British and Irish citizens would be able to live and work in Scotland without restrictions, as they do now, and Scottish citizens would retain those same rights in the UK and in Ireland.

Once Scotland rejoined the European Union, Scottish citizens would once again become EU citizens. This would allow them and their families to live, work and study freely across all 27 current EU member states, as well as Norway, Iceland, Liechtenstein and Switzerland.

## **Citizenship and the constitution**

This government's proposals on citizenship would form part of the interim constitution if Scotland becomes independent. Whether and how citizenship forms part of the permanent Scottish constitution, or if nationality law should be made through Acts of the Scottish Parliament, would be a matter for the constitutional convention, as described in 'Building A New Scotland: Creating a modern constitution for an independent Scotland'. These proposals have been set out in detail in this paper so that everyone involved in the discussion on Scotland's choice of constitutional future is clear where the Scottish Government stands and how they would be affected in the event that the country makes that choice for independence.

## **Conclusion**

Independence would create in law a new nationality and would give the people of Scotland an opportunity to be part of that inclusive national identity. Being a Scottish citizen would be a meaningful, positive outcome of independence. The new right to hold a Scottish passport, continued rights in the Common Travel Area and, after Scotland's accession to the EU, resumed rights as EU citizens are all benefits that Scottish citizens would be able to enjoy.



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# Foreword by the Minister for Independence

The people of Scotland are well used to multiple national identities. Most of us are officially British citizens. Many of us have dual nationalities, are nationals of other countries who have come to Scotland to live, work or study, or have ancestors who did exactly that in years past. Many Scots have family ties to England, Wales, Northern Ireland, the Republic of Ireland, the Channel Islands or the Isle of Man. Some will be connected as a result of the nearly fifty years that Scotland was part of the European Union (EU), and its predecessors; and some will be through our longstanding connections with our friends in the Commonwealth. And ties will have been built the world over because Scotland is an attractive, welcoming, inclusive place for people across the globe to come to visit, study, live, work and raise a family. The most important thing is that, no matter how we came to be here, all of us are as Scottish as we choose to be.

When Scotland becomes an independent country, it will create in law a new legal status of nationality, that of a Scottish citizen, to complement our existing strong national identity as people of Scotland. This new status in law won't replace any of the identities we already hold. We can still choose to be Scottish and British, or any other identity. Scottish citizenship will be a new right we can share – but it doesn't mean any of us must lose anything about who we are and how we live in our communities.

There are some rights and entitlements that will come with Scottish citizenship that only a Scottish citizen can enjoy. Only a Scottish citizen will be able to hold a Scottish passport, for instance, as this paper sets out. But what this paper also sets out is that Scottish citizenship is not a prerequisite for belonging in Scotland. The people of Scotland are more than just its citizens.

We reaffirm our commitment to the Common Travel Area on these islands, so that British and Irish citizens will continue to be able to move freely to live and work in Scotland exactly as they do now, and Scottish citizens will be able to do the same in the UK and Ireland. We look forward to rejoining the EU, when Scottish citizens will become EU citizens once again with the horizon of free movement across Europe ahead of them. We will also welcome fellow EU citizens who choose to come to Scotland, and celebrate that the rights of EU citizens here before Brexit will be restored in full and protected in the meantime. And we look forward to welcoming new Scots from around the world and offering them a route to Scottish citizenship if they wish it.

Independence offers the people of Scotland the chance to build upon our inclusive national identity and sense of collective purpose. I trust the people of Scotland will take that chance when it is offered to them.



**Jamie Hepburn MSP**  
Minister for Independence

# What our proposals would mean for you

Scottish citizenship is an inherent part of Scotland becoming an independent state. This publication describes the Scottish Government's proposals for Scottish citizenship. It is designed to allow people with a connection to Scotland to understand how they could become a citizen on and after independence and what that would mean when the people of Scotland make a choice on Scotland's future.

Under the Scottish Government's proposals:

- the approach to entitlement to Scottish citizenship would be inclusive and welcoming
- Scottish passports would be a right available to Scottish citizens, who should be able to apply for and receive a passport from the first day of independence
- Scottish citizens could hold multiple nationalities after independence; for example, they could hold both Scottish and British citizenship if they wanted, or only one or the other
- with Scottish membership of the Common Travel Area, Scottish citizens would be able to move freely to live and work in the UK and Ireland, as well as the Channel Islands and the Isle of Man, and British and Irish citizens would be able to move freely to live and work in Scotland
- once Scotland becomes an EU member state, Scottish citizens would also be EU citizens, with the right to free movement across the European Union and other European nations including Norway, Iceland, Liechtenstein and Switzerland
- nobody would need to be a citizen to feel that they belong in Scotland – most of the rights and entitlements which people in Scotland enjoy are based on residence in Scotland, and very few (such as holding a passport) would be reserved only for citizens after independence



# Introduction

Determining eligibility for Scottish citizenship would be an essential part of Scotland's transition to independence. From the first day of independence, many Scots would hold the new nationality of a Scottish citizen. Scottish constitutional tradition holds that the authority of the state derives from the people of Scotland<sup>1,2,3</sup> – that the people of Scotland are sovereign, not the legislature (as is the constitutional tradition in other parts of Britain).<sup>4</sup> The proposals in this paper are intended to form part of the interim constitution in the event that Scotland becomes an independent country, as described in 'Building A New Scotland: Creating a modern constitution for an independent Scotland'.<sup>5</sup>

The section on 'Citizenship and statehood' sets out the Scottish Government's vision for an inclusive and welcoming approach to the entitlement to Scottish citizenship for all people whether or not they are born in Scotland or define themselves as primarily or exclusively Scottish, and describes how Scottish citizenship will be different from UK citizenship.

The section on 'Common Travel Area' addresses the continuing rights of Scottish citizens in the UK and Ireland, and those of British and Irish citizens in Scotland, with Scotland as an independent member of the Common Travel Area. British and Irish citizens would always be free to live and work in an independent Scotland without restriction through the Common Travel Area.

The section on 'EU citizenship and citizens' rights' looks forward to Scotland acceding to the European Union as a member state, and the rights that Scottish citizens would acquire when they become EU citizens once again – rights that Scots who are British citizens lost when Scotland was taken out of the EU against the democratic will of the people of Scotland. The Westminster government's approach to Brexit also impacted the rights of EU citizens in Scotland. This paper sets out how we would safeguard the rights of EU citizens living here, in line with the protections of the EU-UK Withdrawal Agreement ('the Withdrawal Agreement'), until such time as they can exercise their reciprocal EU treaty rights to free movement in Scotland once again.

The section on 'Passports' describes our proposals for who could become a Scottish passport holder, and the structures and systems we will incorporate in order to deliver this.

The section on 'Becoming a Scottish citizen by entitlement' sets out proposals for how people would become Scottish citizens automatically by right – both the transitional process on independence, and the ways in which children born after independence would be eligible for Scottish citizenship.

The section on 'Choosing to become a Scottish citizen' sets out proposals for how people could acquire Scottish citizenship by registering or applying to the Scottish authorities after independence.

Finally, there is a quick guide to the Scottish Government's proposals in the Annex to this paper. It provides an easy way to determine what these proposals would mean for an individual based on their current citizenship and other circumstances.

# Citizenship and statehood

This chapter sets out the Scottish Government's proposals for Scottish citizenship to be given effect in an interim constitution for consideration by the Scottish Parliament.

There would be one category of Scottish nationality – that of a Scottish citizen.

Citizenship is important and there would always be a warm welcome for anyone who became a Scottish citizen. But in an independent Scotland, you would not need to be a citizen to belong. While some rights and privileges would be reserved for citizens only – such as the ability to hold a Scottish passport – all of Scotland's people would be able to benefit from the fullest possible participation in Scotland's civic and cultural life.

Box 1, below, describes the small number of rights and entitlements it is proposed would be reserved for citizens alone.

### **Box 1: The rights of Scottish citizens**

Scottish citizens would be able to participate fully in and benefit from all aspects of civic, political and social life in an independent Scotland, including those very few rights which non-citizens do not enjoy and are inherent to citizenship:

- a Scottish citizen would be able to live and work without restriction in Scotland and enter and leave the country at will. Scottish citizenship would not lapse with periods outside Scotland
- a Scottish citizen would be entitled to hold a Scottish passport and seek consular assistance from Scotland's diplomatic and consular network while overseas
- a Scottish citizen would be afforded rights outside Scotland. Citizens of Scotland would have rights within the Common Travel Area and, when Scotland is once again a part of the European Union, Scottish citizens would enjoy the rights of EU citizens in all EU member states, the European Economic Area and Switzerland. Scottish citizens would have a significantly larger international network of consular support available to them after EU accession than they currently do as UK citizens. In addition to Scottish embassies and consulates, Scottish citizens would be able to request help from the local embassy or consulate of any other EU member state where there is not a Scottish diplomatic presence
- a Scottish citizen would be able to renounce their citizenship, providing doing so would not leave them stateless

Under these proposals, the initial rules on who would become a Scottish citizen at the point of independence would form part of the interim constitution of a newly independent Scotland.<sup>6</sup> Many countries define birthright entitlement to citizenship in their constitution and some also define rules to naturalise as a citizen.<sup>7</sup> Whether and how citizenship forms part of the permanent Scottish constitution, or if nationality law should be made through Acts of the Scottish Parliament, would be a matter for the constitutional convention, as described in 'Building A New Scotland: Creating a modern constitution for an independent Scotland'.<sup>8</sup>

On independence, the interim constitution would entitle all British citizens living in Scotland and all British citizens who were born in Scotland to Scottish citizenship. Other British citizens with a close and enduring connection to Scotland would also be entitled to Scottish citizenship. Rules would be clearly set out to allow citizens of other countries to become Scottish citizens if they chose by registering or applying.

There would be no requirement for a British citizen to become a Scottish citizen in order to live and work in Scotland. All British and Irish citizens would be able to live and work in Scotland freely through the Common Travel Area. There are no restrictions on dual citizenship in UK law and no requirement to register with or notify government of dual citizenship arrangements. This is not the case in many other countries,<sup>9,10</sup> but that practice would be maintained in Scotland, placing no barriers to holding multiple nationalities.

Being a Scottish citizen would afford rights in places other than Scotland, such as the Common Travel Area.<sup>11,12</sup> Therefore the interests of our close neighbours in the UK and Ireland would be taken into account, as would those of our fellow member states when Scotland is again part of the European Union. However, it is this government's view that Scotland should not compromise on being welcoming and inclusive to people who have made a contribution to our communities and who wish to affirm that by becoming a Scottish citizen.

## Fairer costs for citizenship services

The Scottish Government proposes a fair and proportionate approach to fees and other costs associated with gaining Scottish citizenship if you have not gained it automatically.

UK citizenship fees are costly for applicants. Current UK policy is for the border, immigration and citizenship system overall to generate revenue, with a cost recovery target in 2022 of 149%.<sup>13</sup> Home Office fees for applications for naturalisation are high by international standards. The cost of naturalisation as a British citizen is currently £1,330 for an adult, including ceremony fees, and £1,012 for a child to register as a citizen.<sup>14</sup> Yet the Westminster government's quarterly data from April 2023 on fees and unit costs in the border, immigration and citizenship system<sup>15</sup> show that the citizenship application costs only £416 to deliver.

By comparison, an adult foreign national already permanently resident in France seeking to naturalise pays a fee of €55 (approximately £48 at 2023 Quarter 2 average exchange rates) along with their application for citizenship.<sup>16</sup> The equivalent cost in Germany is €255 (approximately £223)<sup>17</sup> and in the United States is \$640 (approximately £514).<sup>18</sup>

The Scottish Government's priority for citizenship and migration policy is to encourage people to live and work permanently in Scotland, and we would want to remove disincentives to people choosing to settle here and make a commitment to our communities and economy. While it would be for the Scottish Government of the day to decide what is appropriate for an independent Scotland, this government proposes that charges for citizenship services should be calculated on a fair basis that recovers what it takes to deliver the service. Compared to the UK model, this could mean charges being up to £800 lower per application.

## A less complex approach to citizenship

The interim constitution would also simplify the complexities that are inherent in UK nationality law.

The UK's colonial history has resulted in a range of residual sub-categories of British nationality.<sup>19</sup> Only a British citizen can live and work in the UK by right – but even then, not all British citizens enjoy the same rights. British citizens by descent, which are those born outside the UK, have different rights to British citizens born in the UK. Children of a British citizen by descent who are themselves born outside the UK cannot automatically inherit British citizenship from their parent.<sup>20</sup>

Other British nationalities include:

- British overseas territories citizens, from one of the 14 UK overseas territories such as Bermuda, Gibraltar, and the Falkland Islands<sup>21</sup>
- British nationals (overseas), from Hong Kong prior to 1997<sup>22</sup>
- British protected persons, from Brunei or some other territories prior to 1983<sup>23</sup>
- British overseas citizens, from across the Commonwealth prior to 1983<sup>24</sup>
- British subjects, from across the Commonwealth prior to 1949<sup>25</sup>

None of these other British nationalities gives people the right to live or work in the UK without permission, although most British overseas territories citizens are also British citizens and some people with these nationalities are able to register as British citizens.<sup>26</sup>

New immigration rules would provide a route for British nationals who are not British citizens to live and work in Scotland and to acquire Scottish citizenship after a period of residence here. This visa route will be described in the Building a New Scotland paper on migration and would in particular ensure that British nationals (overseas) in Hong Kong, and their eligible descendants, would continue to have the same ability to come to live and work in Scotland as they currently enjoy through the UK's British National (Overseas) visa.<sup>27</sup>

## Non-citizens

Scotland already has an inclusive approach to civic participation and social protection. Today, many rights and entitlements which other countries reserve for their citizens are offered more freely in Scotland. This recognises the enormous contribution that is made to our country by people from all over the world. Most rights, entitlements and obligations in Scotland are based on residence rather than citizenship.

For example, in some countries, voting in elections and referendums or standing for election to public office are rights reserved to citizens or are only granted to non-citizens in relation to local elections.<sup>28,29</sup> In Scotland, any lawful resident with leave to remain under the current UK immigration system may vote,<sup>30</sup> and any lawful resident settled in Scotland (e.g. with indefinite leave to remain, EU settled status or pre-settled status) may stand for office in the Scottish Parliament<sup>31</sup> or in local government.<sup>32</sup> Our voting legislation<sup>33</sup> and candidacy rights consultation<sup>34</sup> go beyond mitigating the negative effects of Brexit on EU citizens and also serve to enfranchise non-EU residents of Scotland for elections to the Scottish Parliament and local government. The franchise for elections to the Westminster parliament is reserved to the UK government.<sup>35</sup>

Similarly, in Scotland, equal access to education is offered to all eligible Scottish domiciled students.<sup>36</sup>

NHS Scotland provides healthcare free at the point of delivery to overseas workers,<sup>37</sup> international students,<sup>38</sup> migrant families and refugees and asylum seekers<sup>39</sup> – and does not pass patient details to the Home Office for the purpose of immigration enforcement.<sup>40</sup>

These examples reflect the reality that Scotland is an open country, an inclusive community and a nation that values everyone who makes their home here.



# Common Travel Area

There is a long-standing Common Travel Area (CTA) in these islands. This allows for free movement between the UK, Ireland, the Channel Islands and the Isle of Man for citizens of those territories.

Current membership of the CTA also gives reciprocal rights for British citizens in Ireland, and Irish citizens in the UK. This CTA predates either of the current participating states joining the European Union and is still in place after the UK's decision to leave the EU. It is an informal administrative agreement rather than a binding international treaty.<sup>41</sup>

The CTA has existed in some form since the establishment of the Irish Free State in 1922, other than a suspension during the second world war.<sup>42</sup> The principles of the CTA were reaffirmed in 2019 when the governments of the UK and Ireland signed a new Memorandum of Understanding following the UK referendum on leaving the EU.<sup>43</sup> This said that both governments have a "shared commitment to the protection of the CTA and associated reciprocal rights and privileges as a legitimate and fundamental public policy".<sup>44</sup>

The Scottish Government also shares a commitment to the protection of the CTA and the associated reciprocal rights for British, Irish and Scottish citizens after independence. Scotland would be part of this CTA as an independent country, just as it is now as part of the UK. This government would seek to agree this with the UK and Irish governments, in line with their commitment that "steps will be taken now and in the future by the Participants to ensure that these associated reciprocal rights and privileges continue to be appropriately reflected in their respective legal systems".<sup>45</sup> This government would guarantee that the rights of British and Irish citizens in Scotland would continue after independence as they do now.

The result would be that British and Irish citizens, both those living in Scotland at the point of independence and those wishing to travel here in future, would be able to move freely into Scotland. They would have the right to reside and work here; access health care, social protection including social housing, and education; and vote in local and national elections. They would not be required to become Scottish citizens in order to do so. As part of the CTA, Scottish citizens would be able to keep the same reciprocal rights in the UK and Ireland as they currently have.

Ireland is both part of the CTA and a member of the EU. On rejoining the EU, Scotland would continue to be part of the CTA as well as part of the European single market, enjoying the benefits of free movement of people.

The Westminster government and the EU agreed in the Northern Ireland Protocol<sup>46</sup> and reaffirmed in the Windsor Framework<sup>47</sup> that the UK and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories in the CTA, while fully respecting rights conferred by EU law. This requires the UK to ensure that the CTA, and the associated rights and privileges British and Irish citizens enjoy within it, can continue to apply without affecting the Irish Government's obligations under EU law for free movement.

Ireland also has its own approach to immigration<sup>48</sup> and rules on who can become a citizen.<sup>49</sup> There is no contradiction between being part of a CTA and having control of your own borders and laws on who can live and work in your country. Any Scottish Government would, of course, work closely with its UK and Irish counterparts on matters of border security, as good neighbours committed to protecting our citizens and residents and preventing abuse and criminality.

With that objective in mind, Scotland would engage with intergovernmental forums to facilitate dialogue and coordination on issues related to the movement of people within the CTA after independence. This Scottish Government would support strengthening and formalising intergovernmental relations on a tripartite basis where useful and mutually agreed. A common framework for movement of non-citizens within the CTA could be explored, for example, including extending mutual recognition of visitor visas where appropriate and visa-free travel within the area for non-citizen residents of each participating country. Agreeing to work together on border security and facilitating short-term visits does not require harmonisation of long-term migration and citizenship rules, which remain for each country to decide according to the needs of their economies and communities.

## Common Travel Area and EU accession

All EU member states share responsibility to monitor and control access to the EU by land, sea or air from non-EU countries. Part of protecting our place within the single market will mean, as all independent countries do, putting in place normal border arrangements as described in ‘Building a New Scotland: A stronger economy with independence’.<sup>50</sup>

Free movement of people brings numerous benefits and opportunities – allowing citizens of the EU to live, work, establish businesses and study in any member state and giving them and their family members the same rights within the EU.

This government is committed to remaining an integral part of the broader social union that is the expression of the close economic, social and cultural ties that exist across the nations of the UK and Ireland. Independence does not threaten that social union. The EU has protected and enhanced the social and cultural links between Ireland and the rest of these islands. It was fundamental to the context for the peace process developed under the Belfast (“Good Friday”) Agreement and it has consistently demonstrated its commitment to the Agreement throughout the Brexit process.

As part of the accession process, Scotland would sign up to and implement EU law while maintaining freedom of movement under the CTA within these islands. The CTA is recognised in EU treaties,<sup>51</sup> and because of this long-standing arrangement neither Ireland, nor the UK when it was a member, were required to implement in full the Schengen *acquis* – the elements of EU law regulating the removal of internal border controls within the Schengen area, police cooperation and border security at the EU external border.<sup>52</sup> In joining the EU, an independent Scotland could follow this precedent and adopt the Schengen *acquis* in so far as it concerns cooperation between police, customs and border control authorities, the Schengen Information System<sup>53</sup> and dealing better with illegal immigration.

We could seek agreement, on the same basis as Ireland, that because “the United Kingdom and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (“the Common Travel Area)”, the requirement to implement the Schengen *acquis* in full should also not apply to Scotland for “as long as they maintain such arrangements”.<sup>54</sup> This would mean that, while it is part of the CTA, Scotland would not implement the technical requirements of the Schengen *acquis* at its land, sea and air frontiers with the UK and Ireland.

Several member states that joined the EU after the Schengen *acquis* became EU law are not part of the Schengen area and currently only participate in a limited way.<sup>55</sup> These member states may or may not ultimately join the Schengen area, depending on political and technical judgments. Croatia became the latest member state to join the Schengen area from 1 January 2023, ten years after accession to the EU. Scotland's geography, on the island of Great Britain, being only directly accessible to the EU through ferry or air links, also lends itself to a bespoke but precedented arrangement with our nearest neighbours, rather than implementing a system focused on the abolition of borders across the mainland continent of Europe.

As a result of the CTA arrangements, there would be no new passport or immigration checks at any of an independent Scotland's land, sea or air border points with the UK and Ireland, and British, Irish and Scottish citizens would have the right to move freely within the CTA. Scottish citizens would also be able to take full advantage of their rights as EU citizens, just as citizens of Ireland do.

The logic for there being special arrangements in EU law between Ireland and the UK would apply equally to an independent Scotland. The goal of the European project is to remove borders across the EU, not to introduce them where they do not currently exist. Commentators have overwhelmingly recognised that such an arrangement could be accepted by the EU for Scotland.<sup>56,57,58</sup> For example, Professor Katy Hayward, Queen's University Belfast, and Professor Nicola McEwen, University of Edinburgh, said in their 'UK in a Changing Europe' report 'An EU border across Britain: Scotland's borders after independence' that:

“given its unique geographic and historic circumstances, most specifically the existence of the Common Travel Area, most experts assume that Scotland would most likely seek and be granted an opt-out from the border control elements of the Schengen Agreement during membership negotiations with the European Union. This would... preserve free movement of people between Scotland and the rest of the UK. ... [The CTA] already has legal recognition in the EU Treaties and was protected in the UK-EU Withdrawal Agreement.”<sup>59</sup>

# EU citizenship and citizens' rights

## Regaining EU citizenship

In an independent Scotland, this government would seek to rejoin the EU as soon as possible, which would allow Scottish citizens to once again take up in full their rights as EU citizens and take advantage of free movement of people to travel, live, work and study across Europe.

British citizens were also EU citizens before Brexit, and the people of Scotland voted overwhelmingly for that to be maintained. EU citizenship was created in 1992, when the Treaty of Maastricht was adopted.<sup>60</sup> This expanded the concept of free movement of workers, a fundamental pillar of the European single market from its inception in 1957, into a broader citizenship with associated rights including to live, work or study, be accompanied by family, and access public services and social protection. Scotland was part of this evolution and expansion of free movement and citizens' rights for nearly fifty years.

Even while respecting the result of the UK-wide referendum to leave the EU, it would have been possible for the UK to continue to benefit from free movement as part of the European single market, as countries such as Norway and Iceland do. The Westminster government instead pursued a different approach to delivering Brexit, and chose to leave the single market, thereby depriving the people of Scotland – who had voted to remain EU citizens – of their right to free movement.

Scottish citizens would recover their EU citizenship rights in full once Scotland rejoined the EU as an independent member state. EU membership and the full freedoms of the European single market would bring many benefits to Scotland, with free movement of people perhaps the most immediately tangible.

At present, although British citizens can travel to the EU to visit without requiring a visa, they can only stay in the Schengen area for a maximum of 90 days in a rolling 180-day period.<sup>61</sup> When the EU pre-travel authorisation scheme (ETIAS) is introduced in 2024, non-EU nationals, including British citizens, will be required to pay a €7 fee and complete an online declaration before travelling to the Schengen zone.<sup>62</sup> The new EU entry/exit system (EES) will also record biometric data – fingerprints and photographs – of third-country travellers on entry and exit.<sup>63</sup> If a British citizen wants to reside, work or study in the EU, they must apply for a visa or permit from the national government of the country in which they intend to live.<sup>64</sup>

As EU citizens, the citizens of Scotland would be able to travel freely within all EU member states, EEA member countries (Norway, Iceland and Liechtenstein) and Switzerland. Visits of up to 90 days could be for any purpose – to take up or look for work, to study, to see family and friends, or to travel as a tourist. The only requirement would be that travellers possessed a passport or national identity card.

Scottish citizens, as EU citizens, would be able to stay for longer than 90 days in another member state by exercising their rights specified in EU treaties, consolidated in the 2004 Citizenship Directive.<sup>65</sup> This currently requires an eligible citizen to be in that country:

- in employment
- as a self-employed person
- seeking work
- studying
- living self-sufficiently or
- as a family member of an EU citizen exercising any of these rights



Family members are afforded free movement rights while accompanying a qualifying EU citizen even if they themselves are not EU citizens.<sup>66</sup> Once Scotland rejoined the EU, for example, a Scottish citizen exercising their right to free movement could be accompanied by a partner who is a citizen of any other country. An EU citizen or their family member, who has exercised treaty rights to reside lawfully in another member state for at least five years, is automatically considered a “permanent resident”.

EU citizens, who are travelling outside the EU, are also entitled to seek consular assistance from the foreign missions of other member states where there is no diplomatic presence of their home country.<sup>67</sup>

## EU citizens in Scotland

The interim constitution would ensure that the rights of EU citizens in the UK, as set out in the Withdrawal Agreement, would be maintained and enhanced in Scotland over the period following independence and before Scotland rejoined the EU.

It has been estimated that, from data collected between July 2020 and June 2021, there were 231,000 nationals of the 27 current EU member states living in Scotland.<sup>68</sup> More than 300,000 applications to the EU Settlement Scheme (EUSS) have been made by EU citizens, EEA nationals and other eligible residents in Scotland.<sup>69</sup> EUSS statistics include duplicate and repeat applications – for example, an applicant granted pre-settled status may apply for settled status when eligible. The latest quarterly statistics, which include data up to 31 March 2023, show that of the 325,380 concluded applications in Scotland, 182,400 (56%) were granted settled status, 120,540 (37%) were granted pre-settled status and 11,730 (4%) applications were refused; the remainder were withdrawn, void or invalid.

For many of these families, the period since the Brexit referendum and through the pandemic will have brought a range of challenges. The interim constitution would ensure that EU citizens’ rights in Scotland are protected after independence.

At the point of independence, new immigration rules would provide settled status for all EU citizens who were resident in Scotland or elsewhere in the UK before 31 December 2020. The Scottish Government would work with the UK Government with the aim that all current holders of a status under the Westminster government’s scheme in Scotland would automatically be registered.

The Scottish scheme for protecting EU citizens’ rights would ensure that EU citizens and their families in Scotland acquired Scottish settled status automatically if they met the eligibility requirements. Registration would be voluntary and provide EU citizens with a means to prove that status. There would not be a deadline that would make people illegally resident and registration would continue to be possible for EU citizens with settled status who moved to Scotland from the UK after independence. Status holders who were registered would be able to obtain physical proof of their status, which would be free of charge.

The interim settled status scheme would not be required in Scotland after it rejoined the EU as an independent member state, at which point EU citizenship rights would apply once again.

The Scottish Government would seek agreement with the Westminster government that EU citizens with settled status in Scotland should be able to keep their UK EUSS status, allowing them to retain their protected right to live and work in the UK.

## Scottish citizens in the EU

Many British citizens, who would be eligible for Scottish citizenship, currently live in the EU and have their rights protected under the Withdrawal Agreement. As there would be no barrier in Scottish law to holding multiple nationalities, Scottish citizens in this position would be entitled to maintain these rights as British citizens following independence. Once Scotland rejoined the EU, they would benefit once more from the full rights of EU citizenship.

## Protecting rights after independence

This Scottish Government is committed to protecting the rights of migrants after independence. One of the recommendations of Wendy Williams's lessons learned review of the Windrush scandal was that the Westminster government "should introduce a Migrants' Commissioner responsible for speaking up for migrants and those affected by the system directly or indirectly."<sup>70</sup> The Home Secretary confirmed earlier this year that this recommendation would not be implemented, despite previous Home Office commitments to do so.<sup>71</sup>

In an independent Scotland, this Scottish Government would implement this recommendation from the Williams Review by establishing an independent Migrants' Commissioner. This would follow best practice,<sup>72</sup> including from partner countries which have established migrants' commissioners or similar posts – for example, Germany established a commissioner within the federal government responsible for migrant rights and integration in 1978,<sup>73</sup> and the current commissioner has lived experience as part of a family of refugees from Iraq.<sup>74</sup>

In addition to its wider role, this new body in Scotland would be specifically asked to fulfil the role of the Independent Monitoring Authority<sup>75</sup> in protecting the rights of EU citizens and their family members in Scotland in the period until Scotland becomes an EU member state. The commission would be independent of the Scottish Government.

# Passports

This chapter sets out the Scottish Government's proposals for entitlement to a Scottish passport after independence. This would be for the Scottish Parliament to decide upon and enact relevant legislation.

Holding a Scottish passport would be a right available to Scottish citizens and citizens should be able to apply for and receive a passport from the first day of independence. Any currently valid UK passports would continue to be recognised in Scotland until their expiry date. It would not be a requirement of Scottish citizenship that you hold a Scottish passport.

The EU sets a number of standards for passports, visas and national identity cards.<sup>76</sup> These combine common technical requirements for document security with optional recommendations on design and size. Under our proposals, planning for new Scottish passports would follow EU standards and technical requirements. Scottish passports would also follow the EU recommended layout, size and colour: they would be available in lengths of five years for children and ten years for adults and would be burgundy red.

An independent Scotland would establish a passport and citizenship services office to issue passports and receive and determine applications to naturalise or register as a Scottish citizen.

## **Consular assistance while overseas**

An independent Scotland would put in place arrangements to provide support to Scottish citizens who needed it while travelling, living or working abroad.

A key responsibility of any government is to ensure the safety and security of the nation, its people and their values and interests, both at home and abroad. That responsibility must be met within the context of a constantly changing world and be based on a robust assessment of risks and threats.

This government would propose to work with like-minded partners and allies to promote the values and interests that ultimately support the safety and security of our people. Consular services would be available, from travel advice through to emergency support in the event of a crisis abroad. We would achieve this the same way other countries do, through a network of embassies, consulates and through other means such as key partner countries, roaming diplomats and honorary consuls. As citizens of an EU member state, Scottish citizens travelling outside the EU would be entitled to seek consular assistance from the foreign missions of other member states where there is no Scottish diplomatic presence.<sup>77</sup> This would give us the means to reach all Scottish citizens in crises abroad. More detail will be provided in a forthcoming paper on Scotland's place in the world.

# Becoming a Scottish citizen by entitlement

This chapter describes the Scottish Government's proposals for who would automatically be entitled to Scottish citizenship at the point of independence and in future. Ultimately, it would be for the Scottish Parliament to decide how to take these proposals forward.

If the people of Scotland vote to become an independent country, a new Scottish citizenship will be created. Some people would automatically become Scottish citizens, while others would be able to register as a Scottish citizen or apply for Scottish citizenship depending on their circumstances, as described in the chapter 'Choosing to become a Scottish citizen'.

There would be no barrier in Scottish law to holding multiple nationalities, just as there is no barrier in UK nationality law that limits or prevents British citizens acquiring other nationalities.<sup>78</sup> Eligibility for British citizenship, and how Scottish independence affects that for Scottish citizens, would be a question for the Westminster government but we fully expect that all British citizens at the point of independence who are eligible to become Scottish citizens would continue to hold British citizenship should they wish.

Citizens of Scotland who want to continue to identify themselves as British would be able to do so. British and Irish citizens, through our commitment to the CTA, would always be free to live and work in Scotland, and would not need to become Scottish citizens or seek any form of permission in order to stay here after independence.

## Scottish citizenship on independence

The interim constitution would establish that the following groups would be entitled to Scottish citizenship at the point of independence:

- British citizens habitually resident in Scotland
- British citizens born in Scotland but living elsewhere
- British citizens living elsewhere but with a parent who was a British citizen born in Scotland
- British citizens living elsewhere who previously lived in Scotland for at least ten years, or five years as a child, with a pro rata calculation for young adults

This is an open and inclusive offer of citizenship to all people who live in, were born in or have a close and enduring connection to Scotland and are British citizens at the point of independence.

People whose entitlement to Scottish citizenship would be based on their present personal circumstances at the point of independence – i.e. they live in Scotland, or were born in Scotland – would be able to access services for citizens after independence without needing to do anything else.

People who don't live in Scotland and whose entitlement to Scottish citizenship would be based on past circumstances or those of a parent would also be able to access services for citizens, although they may be asked to provide evidence of their eligibility.

Some people may not wish to become Scottish citizens in this way. This could be because some countries place limits on their citizens holding additional nationalities. A British citizen who is a dual national with such a country may not wish to automatically acquire Scottish citizenship as well, as that may not comply with nationality law in the other territory for which they hold citizenship. We would put in place a process for people to opt-out of automatic acquisition of Scottish citizenship at the point of independence if they chose to do so, but would also engage with key partner countries with the aim of removing barriers to dual nationals acquiring Scottish citizenship if they wished it.



## Children born after independence

After independence, a child born in Scotland would automatically be a Scottish citizen if at least one of their parents is:

- a Scottish citizen
- a British or Irish citizen, or
- “settled” in Scotland under Scottish immigration law

“Settled” means having the right to live and work in Scotland without restrictions, such as needing a visa or needing to follow EU free movement rules. This is normally called “indefinite leave to remain” in UK law and “permanent residence” in EU law.

A child born outside Scotland would automatically be entitled to Scottish citizenship if at least one of their parents is a Scottish citizen.

As well as registering the birth according to the regulations of the country in which the child was born, the birth could also be registered in Scotland. This would not be necessary in order for the child to qualify as a Scottish citizen or to apply for a Scottish passport, although it would help evidence eligibility for a passport in any subsequent application.

# Choosing to become a Scottish citizen

This chapter describes the Scottish Government's proposals on how to become a citizen after independence, providing a pathway through the immigration system into settlement and citizenship. As with all these proposals, the law around naturalisation as a citizen would be for the future Scottish Parliament to determine.

The Scottish Government's priority for citizenship and migration policy is to encourage people to live and work permanently in Scotland. This will help Scotland to maintain its vibrant society, address demographic challenges, support communities up and down the country and contribute to a fairer, greener economy and to our public services.

The pathways to citizenship that would be in place that were not transitional after independence would therefore be linked to residence in Scotland. A person would generally have to be settled in Scotland, for the purposes of Scottish immigration and nationality law, to become a Scottish citizen. This would ensure that people who choose to become Scottish citizens are also committed to contributing to social, cultural and economic life in Scotland. Residency in Scotland also comes with obligations, for example, Scotland would continue to operate an income tax system based primarily on residency.

Some people would be able to register as a Scottish citizen after independence. They would gain a right to be a Scottish citizen after living here for at least five years.

Everyone else who wanted to become a Scottish citizen but was not a citizen automatically and was not eligible to register as a citizen, would be able to apply. This process of applying to become a citizen of another country is often called "naturalisation" in nationality law.

## Registration as a Scottish citizen

Two groups of people would be able to register as a Scottish citizen after independence:

- British and Irish citizens living in Scotland
- Children of any nationality living in Scotland who have been brought up here

Anyone else who wants to become a Scottish citizen after independence would apply to naturalise as a citizen.

British and Irish citizens would be able to register as a citizen after five years of residence in Scotland. They would be automatically considered settled in Scotland for immigration and nationality purposes, as they would not be subject to immigration control as part of CTA arrangements. They would not need to be a Scottish citizen to enjoy their reciprocal rights in Scotland as part of the CTA.

A child born in Scotland who is not automatically eligible for Scottish citizenship would be able to register as a Scottish citizen after five years' continuous residence in Scotland, or sooner if either of their parents became a Scottish citizen before that time.

A person who was not born in Scotland but moved here as a child would be able to register as a Scottish citizen after five years' continuous residence in Scotland.

Children and young adults able to register in this way would need to be living in Scotland at the time they registered, and do so before they were 23. (The age cut off of 23 for children and young adults wanting to register relates to the age of becoming an adult (18), plus the requirement for five years residency.) If they are older, and eligible, they would be able to apply to naturalise instead.

## Naturalisation as a Scottish citizen

People resident in Scotland who are not British citizens would not automatically become Scottish citizens at the point of independence. Migrants in Scotland lawfully would be able to apply for naturalisation as a Scottish citizen.

Naturalisation as a citizen would become available after five years of lawful residence in Scotland in most cases, and at least one year as a settled person free of immigration control. These may run concurrently, depending on how and when an individual becomes eligible for settlement.

As a result, the route to naturalisation as a Scottish citizen would be slightly different for:

- EU citizens with settled status
- EU citizens once Scotland had rejoined the EU
- People already settled under UK immigration law (“indefinite leave to remain”)
- People who would need a visa to come to Scotland
- Asylum seekers and refugees

EU citizens and their family members with settled status derived from the EUSS are considered settled in Scotland and would be able to naturalise as Scottish citizens as soon as they met the residence requirement. They would not need to become a Scottish citizen to enjoy their protected rights under the terms of the Withdrawal Agreement, which Scotland would fully respect as an independent country.

Once Scotland rejoined the EU, EU citizens would automatically be considered settled (“permanent residents” in EU law terms) after five years of exercising free movement rights.

People living in Scotland who previously had “indefinite leave to remain” in the UK would become settled in Scotland under Scottish immigration law and could then apply to naturalise as a citizen when they met the residence requirement.

For people who would require a visa to live and work in Scotland, the terms of their visa would state whether it offered a pathway to settlement. Most long-term visa routes would offer a pathway to settlement, typically after five years’ residence.

People who arrived in Scotland under asylum, resettlement or other humanitarian protection routes would be considered settled when the assessment of their status was approved. There would be no charge for settlement applications for refugees or people with humanitarian protection, or for their spouse, partner or children.

Therefore:

- for EU citizens with settled status and people who arrived in Scotland on a humanitarian route, naturalisation could take place after five years of living in Scotland. This is similar to British and Irish citizens, who would be able to register, rather than apply, after five years’ residence in Scotland
- for EU citizens under free movement in the future, and the majority of people living in Scotland with a visa allowing settlement, naturalisation could take place after six years of living in Scotland – five years’ residence followed by a minimum period of 12 months settlement

Settlement would also be offered to anyone who has resided lawfully in Scotland for at least ten years, in the event they have not been able to pursue a path to settlement before that point. This would allow them to apply to naturalise as a Scottish citizen in due course if they chose.

People who are not settled in Scotland would not be able to apply to naturalise as a citizen. However, a route would be created in the immigration system for nationals of other countries who have an enduring connection to Scotland to return here to live and work. This new visa category would offer a pathway to settlement and naturalisation as a Scottish citizen after the qualifying period of residence in Scotland. It will be described in more detail in the Building a New Scotland proposals on migration, but would include people of any nationality:

- who have previously lived lawfully in Scotland for at least five years, or
- who have a parent or grandparent who is or would automatically have been a Scottish citizen

## Renunciation and loss of citizenship

Scottish citizens would have the right to renounce their citizenship, provided doing so would not leave them stateless.<sup>79</sup> There would be no barriers to holding multiple nationalities in Scottish law, but some countries do not permit their citizens to hold multiple nationalities or place limits on doing so. If a Scottish citizen were to naturalise as a citizen of such a country, they could be required to renounce their previous citizenship.

Otherwise, a Scottish citizen could lose their citizenship not by their choice only if the very highest legal and constitutional tests had been met, where that was a proportionate response in the circumstances, and where doing so would not leave them stateless. Loss of citizenship in this way could only occur in the most egregious instances, such as where a person had obtained that citizenship through serious and intentional fraud.

# Conclusion



Citizenship is integral to statehood. The ability to define its citizens is an essential part of Scotland's journey to becoming an independent country. Our proposals on citizenship would form part of the interim constitution in the event that Scotland becomes independent. They have been set out in detail in this paper so that everyone involved in the discussion on Scotland's choice of constitutional future is clear where the Scottish Government stands and how they would be affected when the country makes that choice for independence.

Citizenship is important and there are rights attached to it. Being a Scottish citizen would be a meaningful, positive outcome of independence – the new right to hold a Scottish passport, continued rights in the CTA and, after Scotland's accession to the EU, resumed rights as EU citizens are all privileges that Scottish citizens would be able to enjoy.

Equally, though, this Scottish Government is clear that it would not be necessary to become a Scottish citizen in order to participate in and contribute to civic, social, cultural and economic life in Scotland.

People who could become Scottish citizens on independence would be able to continue to choose to be Scottish and British, or just Scottish, or just British – whichever is right for them.

Scotland is an open, inclusive and welcoming country. We would continue to be so for our closest neighbours in the UK and Ireland, for our fellow Europeans, and for anyone, anywhere in the world, who chooses to come to Scotland to live, work, study or raise a family. If they wish to take it up, the offer of becoming a Scottish citizen would be there following the proposed rules outlined in this paper – but we would continue to value all of the people of Scotland.

**Scottish Government**  
**July 2023**

# Annex: Quick guide to Scottish citizenship

This guide describes the different ways under the Scottish Government's proposals you would be able to become a Scottish citizen after independence depending on whether you are:

- a British citizen
- an Irish citizen
- an EU citizen (or EEA/Swiss, or eligible family member)
- a citizen of another country
- a child living in Scotland, or
- a child born after independence

The Scottish Parliament would decide how to implement these proposals in law if Scotland becomes an independent country.

## I am a **British citizen** and...

Scenario	Proposal
...I will be living in Scotland on the day of independence.	You would be entitled to be a Scottish citizen.
...I was born in Scotland.	You would be entitled to be a Scottish citizen.
...I have at least one parent who is a British citizen born in Scotland (including if that parent is deceased).	You would be entitled to be a Scottish citizen. You may have to provide evidence of eligibility.
...I used to live in Scotland.	You would be entitled to be a Scottish citizen if you previously lived in Scotland for at least ten years, or five years as a child, with a pro rata calculation for young adults. You may have to provide evidence of eligibility.
...I want to move to Scotland after independence.	You would be able to move freely to live and work in Scotland, and register as a Scottish citizen, after living here for five years.

## I am a Irish citizen and...

Scenario	Proposal
...I live in Scotland.	You would be able to register as a Scottish citizen after living here for five years (including time resident in Scotland prior to independence), but do not have to become a citizen to continue to live and work in Scotland.
...I want to move to Scotland after independence.	You would be able to move freely to live and work in Scotland and register as a Scottish citizen after living here for five years.

## I am an EU citizen (or EEA/Swiss, or eligible family member) and...

Scenario	Proposal
...I live in Scotland and have settled or pre-settled status under the UK government's EU Settlement Scheme.	You would be able to apply to become a Scottish citizen after living here for five years (including time resident in Scotland prior to independence), but do not have to become a citizen to continue to live and work in Scotland.
...I live in Scotland and have a UK visa or a settled status other than through the EU Settlement Scheme (e.g. "indefinite leave to remain").	Your UK visa or settlement would continue to allow you to live and work in Scotland until it is due for renewal, at which point you can apply for a relevant status in the Scottish immigration system. You would be able to apply to become a citizen after five years' eligible residence in Scotland (including time prior to independence, as appropriate) and twelve months being settled here.
...I want to move to Scotland after independence and have settled or pre-settled status under the UK government's EU Settlement Scheme.	Your UK EUSS status would allow you to move freely to live and work in Scotland and you would be able to apply to become a Scottish citizen after living here for five years.
...I want to move to Scotland after independence, but before it joins the EU.	You would be able to apply for a visa in the Scottish immigration system, then apply for settlement after five years eligible residence in Scotland, then apply to become a citizen after twelve months being settled here.
...I want to move to Scotland after it joins the EU.	You would be able to move to Scotland in accordance with EU free movement rules, would be automatically considered settled in Scotland (a "permanent resident" in EU law) after five years exercising free movement rights, and would be able to apply to become a citizen after twelve months being settled here.

### I am a citizen of another country and...

Scenario	Proposal
...I live in Scotland and have a UK visa or a settled status (e.g. “indefinite leave to remain”).	Your UK visa or settlement would continue to allow you to live and work in Scotland until it is due for renewal, at which point you could apply for a relevant status in the Scottish immigration system. You would be able to apply to become a citizen after five years’ eligible residence in Scotland (including time prior to independence, as appropriate) and twelve months being settled here.
...I want to move to Scotland after independence.	You would be able to apply for a visa in the Scottish immigration system, then apply for settlement after five years eligible residence in Scotland, then apply to become a citizen after twelve months being settled here.

### I am responsible for a child or young adult who is not a British or Irish citizen\* and...

Scenario	Proposal
...the child was born in Scotland and still lives here.	The child would be able to register as a Scottish citizen after living here for five years (including time resident in Scotland prior to independence) and before the age of 23.
...the child moved to Scotland before the age of 18 and still lives here.	The child would be able to register as a Scottish citizen after living here for five years (including time resident in Scotland prior to independence) and before the age of 23.

\* British and Irish citizens would be able to register as a Scottish citizen at any age after five years residence in Scotland under these proposals, so this provision is not relevant to them.

### I am planning to have a child...

Scenario	Proposal
...in Scotland after independence, and at least one of the child’s parents would be a Scottish, British or Irish citizen, or settled in Scotland.	Your child would automatically be a Scottish citizen.
...in another country, and at least one of the child’s parents would be a Scottish citizen.	Your child would automatically be entitled to Scottish citizenship.
...in Scotland after independence, and none of the child’s parents would be a Scottish, British or Irish citizen or settled in Scotland.	Your child would be able to register as a Scottish citizen after living here for five years, and before the age of 23.

# Acronyms and definitions

<b>CTA</b>	<b>Common Travel Area</b> Administrative agreement allowing free movement within the UK, Ireland, Channel Islands and Isle of Man, with associated reciprocal rights for British and Irish citizens.
<b>EEA</b>	<b>European Economic Area</b> Area covered by an agreement to extend the EU single market to Norway, Iceland and Liechtenstein.
<b>EES</b>	<b>Entry/Exit System</b> Automated system for registering travellers from third countries each time they cross an EU external border.
<b>EFTA</b>	<b>European Free Trade Association</b> Regional trade organisation comprising Norway, Iceland, Liechtenstein and Switzerland.
<b>ETIAS</b>	<b>European Travel Information and Authorisation System</b> Electronic pre-travel authorisation scheme for visa-free travellers to the Schengen zone due to be implemented in 2024.
<b>EU</b>	<b>European Union</b> “EU citizen” can in most instances be taken to also refer to EEA and Swiss nationals and eligible third country family members.
<b>EUSS</b>	<b>EU Settlement Scheme</b> Scheme implemented by the Home Office granting legal status to EU citizens permitting them to remain in the UK after Brexit.
<b>IMA</b>	<b>Independent Monitoring Authority</b> Independent body established following the EU-UK Withdrawal Agreement to protect the rights of EU citizens in the UK.
<b>NHS</b>	<b>National Health Service</b>
<b>UK</b>	<b>United Kingdom</b>
<b>USA</b>	<b>United States of America</b>

# Endnotes

- 1 National Records of Scotland (2020) [The Declaration of Arbroath](#)
- 2 [Claim of Right Act 1689](#) (legislation.gov.uk)
- 3 Scottish Constitutional Convention (1995) [Scotland's Parliament, Scotland's Right](#)
- 4 UK Parliament, [Parliament's authority](#) (accessed July 2023)
- 5 Scottish Government (2023) [Building a New Scotland: Creating a modern constitution for an independent Scotland](#)
- 6 Scottish Government (2023) [Building a New Scotland: Creating a modern constitution for an independent Scotland](#)
- 7 Comparative Constitutions Project, [Constitute database, topics "Requirements for birthright citizenship" and "Requirements for naturalization"](#) (accessed July 2023)
- 8 Scottish Government (2023) [Building a New Scotland: Creating a modern constitution for an independent Scotland](#)
- 9 Home Office, [Dual citizenship](#) (accessed July 2023)
- 10 Vink *et al* (2019) '[The international diffusion of expatriate dual citizenship](#)' in *Migration Studies*, vol. 7, issue 3, pp362-383
- 11 Cabinet Office, Home Office (2022) [Common Travel Area guidance](#)
- 12 Citizens Information Ireland (2022) [Common Travel Area between Ireland and the UK](#)
- 13 Home Office (2022) [Annual Report and Accounts 2021-22](#)
- 14 UK Visas and Immigration (2022) [Fees for citizenship applications](#)
- 15 UK Visas and Immigration (2023) [Visa fees transparency data](#), see rows 162-167, June 2023
- 16 Cost information is available by adding individual circumstances via the following weblink: République Française, [Nationalité française](#) (accessed July 2023)
- 17 Federal Ministry of the Interior and Community, [Becoming a German citizen by naturalization](#) (accessed July 2023)
- 18 US Citizenship and Immigration Services, [Application for Naturalization](#) (accessed July 2023)
- 19 UK Visas and Immigration, [Types of British nationality](#) (accessed July 2023)
- 20 UK Visas and Immigration, [Apply for citizenship if you have a British parent](#) (accessed July 2023)
- 21 UK Visas and Immigration, [Types of British nationality: British overseas territories citizen](#) (accessed July 2023)
- 22 UK Visas and Immigration, [Types of British nationality: British national \(overseas\)](#) (accessed July 2023)
- 23 UK Visas and Immigration, [Types of British nationality: British protected person](#) (accessed July 2023)
- 24 UK Visas and Immigration, [Types of British nationality: British overseas citizen](#) (accessed July 2023)
- 25 UK Visas and Immigration, [Types of British nationality: British subject](#) (accessed July 2023)
- 26 UK Visas and Immigration, [British overseas territories citizen](#) (accessed July 2023)
- 27 UK Visas and Immigration, [British National \(Overseas\) visa](#) (accessed July 2023)
- 28 UN High Commission on Human Rights (2021) [Human Rights and Elections: A Handbook on International Human Rights Standards on Elections](#)
- 29 Earnest, D.C. (2015) '[Expanding the Electorate: Comparing the Noncitizen Voting Practices of 25 Democracies](#)' in *International Migration & Integration*, vol. 16, pp. 1 - 25
- 30 Scottish Government (2021) [Register to vote in Scotland](#)
- 31 Electoral Commission (2020) [Scottish Parliamentary election: Guidance for candidates and agents: Part 1 of 6 - Can you stand for election?](#)
- 32 Electoral Commission (2022) [Council elections in Scotland: Guidance for candidates and agents: Part 1 of 6 - Can you stand for election?](#)
- 33 [Scottish Elections \(Franchise and Representation\) Act 2020](#) (legislation.gov.uk)
- 34 Scottish Government (2022) [Electoral reform consultation](#)
- 35 [Scotland Act 1998](#), Schedule 5 (legislation.gov.uk)
- 36 Scottish Government, [Schools](#) (accessed July 2023) Scottish Government, [Universities](#) (accessed July 2023)
- 37 NHS Inform (2023) [Healthcare for overseas visitors – overseas workers](#)
- 38 NHS Inform (2023) [Healthcare for overseas visitors – overseas students](#)
- 39 NHS Inform (2023) [Healthcare for refugees and asylum seekers](#)
- 40 NHS Inform (2023) [Healthcare for overseas visitors – immigration health surcharge](#)

- 41 Cabinet Office, Home Office (2022) [Common Travel Area guidance](#)
- 42 Wilkins, H et al (2019) [The Common Travel Area and the special status of Irish nationals in UK law](#) (House of Commons Library)
- 43 Cabinet Office (2019) [Memorandum of Understanding between the UK and Ireland on the CTA](#)
- 44 Cabinet Office (2019) [Memorandum of Understanding between the UK and Ireland on the CTA](#)
- 45 Cabinet Office (2019) [Memorandum of Understanding between the UK and Ireland on the CTA](#)
- 46 European Commission (2020) [Protocol on Ireland and Northern Ireland](#)
- 47 European Commission (2023) [Protocol on Ireland and Northern Ireland: The Windsor Framework](#)
- 48 An Roinn Dlí agus Cirt, [Irish Immigration Service](#) (accessed July 2023)
- 49 An Roinn Gnóthaí Eachtrachta, [Citizenship](#) (accessed July 2023)
- 50 Scottish Government (2022) [Building a New Scotland: A stronger economy with independence](#)
- 51 EUR-Lex (2012) [Treaty on European Union](#)
- 52 The Schengen *acquis* is defined by [1999/435/EC: Council Decision of 20 May 1999](#)
- 53 European Commission, [Schengen Information System](#) (accessed July 2023)
- 54 EUR-Lex (2012) [Treaty on European Union](#)
- 55 European Commission, [Schengen Area](#) (accessed July 2023)
- 56 Lock, T (2020) 'Negotiating EU Accession: Lessons for an Independent Scotland' in [An Independent Scotland in the EU: issues for accession](#), Scottish Centre on European Relations
- 57 Maher, I (2020) 'Borders: Free Movement and the Common Travel Area' in [An Independent Scotland in the EU: issues for accession](#), Scottish Centre on European Relations
- 58 Sampson, T (2022) '[What are the economic consequences of a Scotland—England international border?](#)' in *The Herald*, 10 February 2022
- 59 Hayward, K and McEwen, N (2022) [An EU border across Britain: Scotland's borders after independence](#) (UK in a changing Europe), pp. 26 - 27
- 60 European Parliament (2023) [Free movement of persons](#)
- 61 European Commission, [Visa policy](#) (accessed July 2023)
- 62 European Commission, [New requirements to travel to Europe](#) (accessed July 2023)
- 63 European Commission, [Entry-Exit System](#) (accessed July 2023)
- 64 European Union, [Immigration to the EU](#) (accessed July 2023)
- 65 EUR-Lex (2004) [Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States](#)
- 66 EUR-Lex (2004) [Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States](#)
- 67 European Commission, [Consular protection](#) (accessed July 2023)
- 68 National Records of Scotland (2022) [Population by Country of Birth and Nationality, Scotland, July 2020 to June 2021](#)
- 69 Home Office (2023) [EU Settlement Scheme statistics](#)
- 70 Williams, W (2020) [Windrush Lessons Learned Review](#) (Home Office)
- 71 UK Parliament (2023) [Update on the Windrush Lessons Learned Review Recommendations: Statement made on 26 January 2023](#)
- 72 Durrant, T, Rutter, J and Jones, N (2021) [How to be an effective commissioner](#) (Institute for Government)
- 73 European Commission, [Governance of migrant integration in Germany](#) (accessed July 2023)
- 74 Berg, K (2022) '[These issues have accompanied me all my life": Immigration as a responsibility of government – Integration Commissioner Reem Alabali-Radovan discusses challenges and experiences](#) (deutschland.de)
- 75 The Independent Monitoring Authority was established by the European Union (Withdrawal Agreement) Act 2020 to protect the rights of EU and EEA/EFTA citizens, and their family members, in the UK and Gibraltar. It is an independent, impartial non-departmental public body under the remit of the Ministry of Justice. The European Commission fulfils the equivalent function to safeguard the rights of British citizens in EU member states. See: Independent Monitoring Authority (2022) [What we do](#); European Commission (2021) [Citizens' rights](#)
- 76 European Commission, [Document security](#) (accessed July 2023)
- 77 European Commission, [Consular protection](#) (accessed July 2023)
- 78 Home Office, [Dual citizenship](#) (accessed July 2023)
- 79 United Nations (2005) [1961 Convention on the Reduction of Statelessness](#)





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