

BREXIT - WHAT CHANGES FOR NATIONALS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN SWITZERLAND?

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And can I, as a foreigner, leave the United Kingdom of Great Britain and Northern Ireland and take up residence in Switzerland?

Great Britain's Prime Minister Theresa May has played for high stakes - and lost almost everything. After the election on 8 June 2017, the United Kingdom has been politically paralyzed and it is not yet clear what will happen next. Has the Conservative Party formed a viable government coalition for the medium and long-term? What does the recent election mean for the Brexit negotiations? Will there be upcoming additional elections? And will the United Kingdom soon be ruled by a Labor government under Jeremy Corbyn, which would also lead to considerable tax burdens for wealthy individuals?

The consequences of the Brexit and the recently held elections in the United Kingdom are not yet foreseeable. Here below are some tips and planning possibilities for foreigners who would like to leave the United Kingdom of Great Britain and Northern Ireland due to political uncertainty. In addition, we will present what could change for citizens of the United Kingdom of Great Britain and Northern Ireland in Switzerland after the Brexit.

I. Nationals of Great Britain and Northern Ireland in Switzerland

1. Why is Brexit relevant to me? Switzerland is not even a member of the European Union.

Correct, Switzerland is not a member of the European Union. However, Switzerland and the European Union regulate a large number of their relations through so-called bilateral treaties. This includes, inter alia, the Agreement between the Swiss Confederation and the European Community and its Member States (including Great Britain and Northern Ireland) on the free movement of persons (so-called "Agreement on the Free Movement of Persons").



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2. What does the Agreement on the Free Movement of Persons regulate?

The Agreement on the Free Movement of Persons regulates in particular the following:

- Right of entry, residence, access to employment and self-employment as well as the right to remain in the territory of the contracting parties;
- Facilitation of service provision in the territory of the contracting parties, in particular the liberalisation of short-term services;
- Granting a right of entry and residence in the territory of the contracting parties to persons who are not gainfully employed in the host country;
- Granting the same life, employment and working conditions as for native nationals;
- Right to family reunification.

3. What happens to the rights that arise from the Agreement on the Free Movement of Persons after the departure of Great Britain and Northern Ireland from the European Union?

With the departure of Great Britain and Northern Ireland from the European Union, British and Northern Irish citizens, probably as of April 2019, will lose the rights under the Agreement on the Free Movement of Persons also in Switzerland.

As of April 2019, British and Northern Irish nationals will be considered by Swiss immigration authorities as third-country nationals, unless a new agreement is reached between the two countries and Switzerland. This means that British and Northern Irish nationals – like other third-country nationals – would also be exclusively subject to the Federal Act on Foreign Nationals.

British and Northern Irish nationals will lose, in particular, their right to pursue gainful activity in Switzerland under the Agreement on the Free Movement of Persons. Similarly, British and Northern Irish nationals will lose their right to take up residence in Switzerland under simplified conditions without gainful employment.

4. What is the position of the Swiss Government?

According to a statement of the Directorate of Foreign Affairs as of March 2017, Switzerland wishes to ensure that the existing mutual rights and obligations in its relationship with the United Kingdom and Northern Ireland will continue to apply after the United Kingdom and Northern Ireland leave the European Union and to develop these rights and obligations where necessary («Mind the gap» Strategy). According to the statement of the Directorate of Foreign Affairs as of March 2017, achieving this will be dependent upon:

- a follow-up regime between Switzerland and the United Kingdom and Northern Ireland that replaces the current bilateral agreements with the European Union;
- potential transitional solutions to cover the period between the United Kingdom's and Northern Ireland's withdrawal and the coming into force of the follow-up regime;
- the maintenance of the existing rights and obligations in the context of multilateral agreements in which the United Kingdom and Northern Ireland are currently included as members of the European Union (e.g. World Trade Organisation).

5. I am British, I work in Switzerland and would like to continue to do so. Is this possible?

British citizens who wish to stay in Switzerland and continue to pursue gainful activity here will require a work and residence permit as of April 2019, provided that the United Kingdom and Northern Ireland do not enter into an agreement with Switzerland.

6. Can I stay in Switzerland and wait for the approval decision for the new permit?

No, in principle, British nationals must leave Switzerland and await the approval decision abroad. On the basis of the special starting position, however, exceptions are likely to be granted. It is also a possibility that the expiration of rights under the Agreement on the Free Movement of Persons will not take retroactive effect, meaning that British and Northern Irish nationals who already hold valid Swiss permits as of April 2019 will not come under new regulation until the permit requires extension or renewal.

7. Supposing that no agreement is concluded between Great Britain and Northern Ireland with Switzerland - under what conditions can I work in Switzerland as a self-employed person in the future?

The granting of a residence permit in Switzerland and permission to at the same time be gainfully employed will generally be possible for the British and Northern Irish people if the following requirements are cumulatively fulfilled:

- The authorisation corresponds to the overall economic interest;
- An application from the employer has been submitted;
- The applicable quota for the first-time approval of a short-stay or residence permit with gainful activity has not yet been extinguished;
- There is no suitable employee from Switzerland or from the EU-/EFTA area available for the position;
- The salary and employment conditions customary for the location, profession and sector are satisfied;
- All personal requirements are fulfilled;
- There is suitable accommodation available.

8. What about self-employed gainful activities, such as being an entrepreneur or investor?

Please see our blog [“Can I move to Switzerland? Swiss Immigration Regulations for Entrepreneurs, Investors, Pensioners and Wealthy Individuals Explained”](#), section 4.1.

9. I am retired – any options for me?

Yes, please see our blog [“Can I move to Switzerland? Swiss Immigration Regulations for Entrepreneurs, Investors, Pensioners and Wealthy Individuals Explained”](#), section 4.1.

10. I do not intend to conduct any gainful activities, I am not retired yet and I simply would like to live in Switzerland. Any options for me?

Yes, but it depends on your financial situation. Please see our blog [“Can I move to Switzerland? Swiss Immigration Regulations for Entrepreneurs, Investors, Pensioners and Wealthy Individuals Explained”](#), section 4.2.

II. Moving to Switzerland as a so-called “res-non-dom”

1. I am living in London as a so-called “res-non-dom” and I am worried about the economic and political instability in Great Britain caused by Brexit and the recent elections, and I expect taxes to rise substantially in the near future. Can I move to Switzerland?

The answer depends on several factors, including whether or not you are an EU-/EFTA national or a national from a third country. There is therefore no overarching answer to this question, as

it will depend upon your individual personal circumstances.



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A. EU-/EFTA nationals

If an **EU-/EFTA national** wishes to move from London to Switzerland, he or she requires a residence permit. The competent authorities will grant a residence permit if the necessary conditions are met, that is to say, that the applicant has sufficient financial resources to ensure that he or she does not become dependent upon public assistance, and is able to demonstrate insurance coverage that covers all risks arising from illness and accident.

The financial resources are considered sufficient if they exceed the base level that according to Swiss law gives entitlement to social benefits. This is determined by the approaches of the Swiss Conference on Social Aid. The calculation of the financial resources also takes into account pensions and social security benefits. Retirees must additionally prove that their financial resources exceed those which entitle a Swiss national to supplementary benefits for old-age, survivors' and disability insurance.

As for more details please see our blog [“Can I move to Switzerland? Swiss Immigration Regulations for Entrepreneurs, Investors, Pensioners and Wealthy Individuals Explained”](#), section 2.2.5.

B. Nationals from third countries

Wealthy private individuals **from third countries** may be granted a residence permit in Switzerland if this is justified by **substantial cantonal fiscal interests**. The question of what exactly constitutes significant fiscal interests for this purpose is answered differently from canton to canton due to the federalist structure in Switzerland.

As a cantonal minimum for a finding of significant fiscal interests, an individual must have an **income** of CHF 250'000 or an **asset** of CHF 1'000'000. In **most cantons**, however, a higher income and asset-base is required. In some cantons an annual **income** of up to CHF 1'000'000 or **assets** of up to CHF 20'000'000 is expected. Therefore, depending upon the canton, a person must have an **income** of between CHF 250'000 and CHF 1'000'000 or **assets** of a value between CHF 1'000'000 and CHF 20'000'000.

Other cantons do not directly account for income and assets, but expect a person to pay a **certain minimum tax** so that an authorisation can be granted. Depending upon cantonal practice, a residence permit is only issued if the calculated effective taxes to be paid amount to at least CHF 250'000 (including the direct federal tax, state and municipal tax). On the other hand, some cantons expect that the taxes to be paid should amount to at least CHF 500'000. If a private individual makes use of the so-called lump-sum taxation regime, then normally a minimum tax liability of CHF 400'000 is expected.

Wealthy private individuals who wish to receive a residence permit have to prove that they will move their center of life to Switzerland and that they will spend most of their time in Switzerland. A pre-existing personal connection with Switzerland is not required for obtaining such a residence permit. If a residence permit is issued on the basis of considerable cantonal fiscal interests, the foreigner may not pursue any gainful activity in Switzerland. Gainful activity pursued outside of Switzerland is allowed, with the exception of a few cantons who do not allow any gainful activity at all, regardless of where it is completed. In any event, it is permissible for a foreigner to manage his own assets in Switzerland.

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