

Management Alert



UK Immigration: Government Issues Guidance for EU Nationals in No-Deal Brexit Scenario

By Deirdre M. Murphy

The following alert is directed to organizations with a presence in the UK or who anticipate the need to place talent at a UK work site.

Seyfarth Shaw's Global Mobility Practice hosts attorneys licensed to practice in the UK, Canada, Ireland and Germany. The group has the capability to assist clients with obtaining work and residence visas for over 70 jurisdictions around the world. If we can assist you in placing talent, please call your Seyfarth attorney. We will be happy to help you.

Seyfarth Synopsis: On January 28, 2019, the UK government issued guidance in relation to the rights of EU nationals in the event of a no-deal Brexit. The proposals, subject to parliamentary approval, allow for a transition period, introduce a new European Temporary Leave to Remain status and clarify the right to work check compliance requirements.

The Proposals: Interim Period and European Temporary Leave to Remain

The guidance issued by the government clarifies the rights of EU nationals who enter the UK after March 29, 2019 in a no-deal Brexit scenario. The following proposals are subject to parliamentary approval.

- EU nationals would be permitted to enter the UK after March 29, 2019 up until December 31, 2020 without a visa and remain for three months. Work and study are permitted.
- If the EU national wishes to remain for longer than three months, they must apply for **European Temporary Leave to Remain** and will be granted 36 months. Work and study are permitted.
- It will not be possible to extend the European Temporary Leave to Remain status and it does not lead to Settlement Status.
- If the EU national wishes to remain in the UK for more than 36 months, they must apply under the new immigration system which will come into effect on January 1, 2021. The details of this new system have not yet been confirmed.
- EU nationals who do not qualify under the new immigration system must depart the UK when their European Temporary Leave to Remain expires.

Irish citizens will continue to have the right to reside and work in the UK and will not be required to apply under the European Temporary Leave to Remain requirements.

The European Temporary Leave to Remain application must be submitted within three months of the EU national arriving in the UK. The application will be filed online - applicants will need to provide proof of identity and details of any criminal convictions. Applications may be refused if individuals are considered a serious or persistent criminal or pose a threat to national security.

EU nationals who enter the UK by March 29, 2019 will continue to be eligible to apply under the Settlement Scheme.

Employer Compliance: Right to Work Checks

In a positive development, the government stated that employers will not be required to undertake additional checks of EU nationals under the right to work requirements until January 2021. This will allow sufficient time for EU nationals and their family members to apply under the Settlement Scheme by the end of December 2020 and be granted a document to confirm their status.

Therefore, employers may continue to accept a valid EU passport or national identity card as sufficient proof of an individual's right to work in the UK until January 1, 2021, regardless of when that person first entered the UK.

After that time, employers will be required to distinguish between EU nationals who were resident in the UK before March 29, 2019 and post-Brexit. The process will require employers to check the status of EU citizens using the Home Office's Digital Status Checker system.

We will continue to monitor and report on developments in relation to Brexit as events unfold.

If you have any questions or would like further information, please contact [Deirdre Murphy](mailto:dmmurphy@seyfarth.com) at dmmurphy@seyfarth.com.

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Seyfarth Shaw LLP Management Alert | January 30, 2019

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