

Brexit: Employing talent from the EU and beyond

Employers of EU workers have been understandably concerned about what the future might hold after Brexit. Will existing EU workers be able to stay and continue their employment in the UK and will others be free to come to the UK to work in the future?

The Government has confirmed that EU workers will continue to benefit from free movement during the Brexit implementation period from 30 March 2019 to 31 December 2020. This means they will be free to live and work in the UK during this time. However, those wishing to stay after 31 December 2020 will need to apply for 'settled' or 'pre-settled' status.

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Whilst individuals will need to apply for such status themselves, employers may wish to assist EU workers with these applications by providing them with information and support.

How to apply for 'settled' or 'pre-settled' status

Jane Biddlecombe, employment and immigration solicitor at Paris Smith LLP advises that all EU nationals and their families who are resident in the UK prior to 31 December 2020 will be able to apply for settled or pre-settled status.



Those EU nationals who have been in the UK continuously for more than five years will be able to apply for 'settled' status immediately and this will enable them to live and work in the UK indefinitely. Those that have not been resident for a continuous period of five years will be able to apply for 'pre-settled' status and can then apply for 'settled' status once they have been in the UK for five years.

EU nationals will need to complete an online application which the Government has promised will be "streamlined and user-friendly". Applicants will have to verify their identity and nationality (generally with their passport or national ID card) and confirm how long they have been resident in the UK. Criminal records and other security checks will also be carried out. In most cases, proof of residence will be confirmed by an automatic check of employment and benefits records held by HMRC and the Department for Work and Pensions.

When to take action

All EU nationals wishing to apply for 'settled' status or 'pre-settled' status must do so by **30 June 2021**. Although there is no need to take immediate action, the Government is planning to introduce the system on a phased basis from the end of this year.

Will UK employers be able to recruit EU nationals in the future?

It remains unclear on what basis businesses will be able to employ EU nationals to come and work in the UK for the first time after 31 December 2020. Employers will need to wait for details of the new, post-Brexit immigration system for EU nationals. Recent indications are that this will be based on an adapted version of the current Tier 2 visa system for skilled workers from outside the EU.

Should employers embark on a global search for talent?

To avoid employment gaps in the future, Paula Nettleton, senior manager at Menzies LLP advises that businesses that are reliant on a high volume of highly-skilled EU workers may decide to widen the net in order to recruit talent from continents such as Asia, Africa and other parts of the world.

In the past, multinationals and larger corporates have achieved this through inter-company transfers and this is likely to continue. However, small and medium-sized businesses have less experience in this area and may find they are restricted by the costs of obtaining a sponsor licence and the cap on highly-skilled, non-EU worker migration through the Tier 2 visa system, which is currently set at just 20,700 per annum.

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To succeed in attracting talented workers from around the world, employers should explore alternative recruitment channels now and have procedures in place to assist in the recruitment of non-EU workers, including investigating the possibility of obtaining a sponsor licence. By taking this action now, they will gain access to a wider talent pool and be ready to react quickly to any Brexit-related changes.



Contact us

For more information about global mobility, taxation and the search for talent, please contact Paula Nettleton, senior manager at accountancy firm, Menzies LLP (pnettleton@menzies.co.uk).

For legal advice about managing the employment of workers from the EU and beyond, please contact Jane Biddlecombe, employment and immigration solicitor at Paris Smith LLP (jane.biddlecombe@parissmith.co.uk) <https://parissmith.co.uk/specialist-services/immigration-business/>.

