

GMS Flash Alert

Immigration Edition

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Ireland - Phase 1 of Negotiations on U.K.'s Exit from EU Finalised

A joint report was released on 8 December 2017 and approved by the European Council on 15 December 2017, providing an update on Phase 1 of the negotiations over the United Kingdom's withdrawal from the European Union.¹ The U.K. Home Office and an open letter from the U.K. prime minister to EU citizens living in the U.K. give further guidance on EU citizen's rights following Brexit.

- The U.K. accepts that the Common Travel Area between the U.K. and Ireland, and associated rights and privileges can continue to operate.
- The EU and the U.K. have agreed principles which will govern citizens' rights, following the U.K.'s exit from the EU.
- The joint report was released under the caveat that nothing is agreed until everything is agreed.
- Additionally, guidance from the U.K. Home Office and an open letter from the U.K. Prime Minister, Theresa May, has given the clearest guidance yet on the rights of EU citizens in the U.K. (and U.K. citizens living in the EU) after the U.K. exits the EU on 29 March 2019.

WHY THIS MATTERS

Changes lie ahead for European Union citizens in the context of U.K. and wider EU immigration law, as the U.K. agrees on the terms of its departure from the EU. In particular, companies should be aware that the U.K. will be introducing a new application procedure in the second half of 2018 for those EU citizens affected by Brexit, and that reciprocal legislation for U.K. citizens in EU member states will be forthcoming at an unspecified date.

The proposal that those who are in the U.K. prior to 29 March 2019 will be able to apply for "settled status" (even if they have not been in the U.K. for five years on that date) may provide comfort for prospective employees who might have otherwise been reticent to come to the U.K. whilst their EU rights were unclear.

Specifically with regards to Ireland, employers and frontier workers will be relieved that the U.K. has maintained its desire to avoid a hard border, and that the Common Travel Area will be unaffected by Brexit. The U.K. has also agreed that the people of Northern Ireland who are Irish citizens will be able to avail themselves of EU rights.

Proposed Citizens' Rights

The current terms of negotiations are:

The overall objective of any withdrawal agreement between the EU and the U.K. will be to provide reciprocal protection for EU and U.K. citizens, if those citizens have exercised free movement rights by 29 March 2019.

Should an agreement be reached, the U.K. will introduce a bill to implement any withdrawal agreement between the EU and United Kingdom.

The European Court of Justice will continue to have jurisdiction over citizens' rights for eight years after the U.K.'s withdrawal from the EU, and after that time, the U.K. courts will continue to consider case law of the European Court of Justice when deciding issues involving EU citizens' rights.

The U.K. will grant "settled status" to EU citizens and their families who otherwise would have been able to qualify for permanent residency under existing EU law.

EU citizens exercising free movement rights and who have not lived in the U.K. for more than five years will be allowed to remain in the U.K. with "temporary status" until they have resided in the U.K. for five years, at which point they may apply for "settled status".

These rights equally apply to the existing spouses, partners, children, grandchildren, parents and grandparents of EU citizens exercising free movement rights, as long as the family relationship existed prior to 29 March 2019.

There will be a period of at least two years, beginning 29 March 2019, when all EU citizens and their families can apply for settled status.

In the second half of 2018, the U.K. will introduce a new administrative procedure for applications. This application will cost no more than applying for a U.K. passport (currently £72.50).

Those who have already applied for and obtained permanent residence will have to reapply under the new administrative procedure, however their applications will be free of charge.

The U.K. will form an "independent national authority" to monitor the implementation and application of EU citizen's rights.

The U.K. accepts that the Common Travel Area between the U.K. and Ireland, and associated rights and privileges can continue to operate.

The existing rights of frontier workers, rules for healthcare (including the European Health Insurance Card), pension rights and mutual recognition of qualifications are to be maintained.

KPMG NOTE

The joint report, the guidance from the U.K. Home Office, and the open letter from the U.K. prime minister have provided the clearest guidance yet on the rights of EU citizens exercising free movement rights in the U.K. (and U.K. citizens exercising these rights in the EU), after the U.K.'s withdrawal from the EU on 29 March 2019.

However, the joint report was published under "the caveat that nothing is agreed until everything is agreed"; therefore, these are simply proposed terms. Nevertheless, the U.K. has confirmed that it will launch a new application procedure for EU citizens affected by the U.K.'s exit from the EU in the "second half of 2018", and that at this time, those affected "do not have to do anything at all."

FOOTNOTES:

1 For prior coverage, see GMS [Flash Alert 2017-183](#) (13 December 2017).

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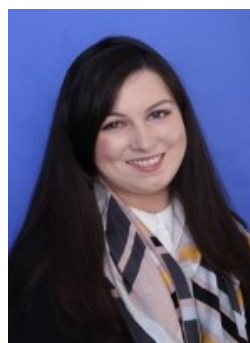
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* Please note that KPMG LLP (U.S.) does not provide immigration services.

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