



# GMS Flash Alert

## Immigration Edition

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# United Kingdom – Reduced Rights for EU Citizens if ‘No Deal’ Brexit

On 6 December 2018, the U.K. government published a policy paper on the rights of European Union (EU) citizens in the U.K. in the event of the U.K. leaving the EU without a deal.<sup>1</sup> The paper highlights a number of key differences in rights afforded to EU citizens compared to the rights which would be guaranteed under the Draft Agreement on the withdrawal of the U.K. from the EU (“DWA”) dated 14 November 2018.<sup>2</sup>

The policy paper also provides some information for U.K. nationals in the EU in a “no deal” scenario.

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## WHY THIS MATTERS

While the U.K. government has released a number of technical notices regarding a no deal Brexit scenario covering such areas as importing and exporting, money and tax, and workplace rights<sup>3</sup>, it has not been as explicit about the consequences of no deal on EU citizens in the United Kingdom (for related coverage, see [GMS Flash Alert 2018-129](#), 4 October 2018)..

It has now become clear that while the policy paper is still based on the terms of the DWA, it marks a more restrictive approach to the post-Brexit treatment of EU citizens in the event that the U.K. and EU are unable to reach an agreement on the terms of the U.K.’s withdrawal.

This is also the first time the U.K. government has shared information on what a no deal scenario might mean for U.K. citizens in the European Union.

## Details of the New Approach

The main details of the policy paper regarding EU citizens in the U.K. are as follows:

- Only EU citizens resident in the U.K. by 29 March 2019, will be able to apply to stay in the U.K. under the EU Settlement Scheme (for prior coverage, see GMS [Flash Alert 2018-134](#), 19 October 2018), rather than those resident in the U.K. by 31 December 2020, as per the DWA.
- EU citizens residing in the U.K. after Brexit will be able to work, study, and access benefits and services in the U.K. as they have done previously. This means that they will continue to be entitled to health-care, education, and social housing as previously. Their professional qualifications will also be recognized, provided they applied for or received a recognition decision by 29 March 2019.
- EU citizens resident in the U.K. will have to make an application via the EU Settlement Scheme under U.K. law by 31 December 2020, in order to remain in the U.K., as opposed to 30 June 2021, under the DWA.
- Settled status, once obtained, will be lost after five consecutive years away from the United Kingdom.
- Existing close family members will be able to join an EU citizen in the U.K. who has already obtained “settled status” by 29 March 2022. After this date, existing close family members would have to apply to join an EU citizen in the U.K. under U.K. immigration rules. New close family members will be able to join an EU citizen with settled status by 31 December 2020. Following this date, new close family members would also have to apply to join an EU citizen in the U.K. under U.K. immigration rules.
- Frontier workers will be able to continue their working patterns, subject to either qualifying for a status under the EU Settlement Scheme, or obtaining another U.K. immigration status document.
- EU citizens will only be able to challenge a refusal under U.K. law. They will be unable to refer their immigration cases to the Court of Justice of the European Union.
- EU passports and citizen ID cards will be sufficient proof of the right to live and work in the U.K. until 31 December 2020.
- After 31 December 2020, EU citizen ID cards may no longer be sufficient to enter the United Kingdom.
- The new U.K. immigration system will be implemented as of 1 January 2021.
- Irish citizens in the U.K. will not be affected as they can continue to rely on the Common Travel Area arrangements currently in place.
- The U.K. is asking the EU and its member states to set out reciprocal arrangements for U.K. citizens in the EU as soon as possible. The U.K. is also negotiating with the European Free Trade Association (EFTA) countries of Sweden, Norway, Liechtenstein, and Iceland to put similar arrangements in place. These countries have already confirmed that U.K. citizens living there now will be able to remain after Brexit.

The main details of the policy paper regarding U.K. citizens in the EU are as follows:

- The U.K. cannot act unilaterally to protect the rights of U.K. citizens in the European Union. It therefore calls on the EU and its member states to set out how it is going to protect the rights to employment, health-care, education, benefits, and services of U.K. citizens living in the European Union.

- U.K. nationals who return to the U.K. in case of a no deal scenario will have access to nationally funded health-care (National Health Service) on the same basis as U.K. nationals currently living in the United Kingdom.
- They will be able to register to vote in local and national elections in the United Kingdom.
- The U.K. government is still working on the rules governing EU and non-EU dependants of U.K. citizens who may wish to accompany the U.K. citizen to the United Kingdom.
- Returning U.K. citizens will continue to be able to claim benefits received currently while living in the European Union. The regime regarding new claims will be considered in due course.
- Access to education in the U.K. is confirmed.
- The U.K. government is exploring options to protect past social security contributions made in the EU and the U.K., and reciprocal health-care arrangements. Further information will be announced prior to the U.K.'s exit to allow citizens to make appropriate arrangements.

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## KPMG LLP (U.K.) NOTE

The announcements in the policy paper are likely to add another layer of confusion for EU citizens and employers. This shift towards a potentially more restrictive approach, with little notice before the U.K.'s withdrawal on 29 March 2019, could have the result of unsettling many businesses and individuals who had expected there to be a two-year transition period before restrictions on the movement of EU citizens came into force.

On the other hand, U.K. citizens living in the EU, who have thus far received very little information on their rights and obligations post-Brexit are likely to welcome the information contained in the policy paper.

However, it is important for businesses and employees to remember that these policies will only apply in the event of a no deal outcome to the negotiations. The overriding message of the policy paper is that those EU citizens who are already in the U.K., and those U.K. citizens already living in the EU, will generally have their rights protected. EU citizens in the U.K. will have until 31 December 2020 to obtain an immigration status document in the United Kingdom.

However, in a no deal scenario there will not be a transition period. Future arrivals from the EU as of 29 March 2019, may therefore be impacted, and businesses should consider these implications as part of their planning (in the event of no deal) regarding their future workforce.

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## FOOTNOTES:

1 See "[Citizens' Rights - EU citizens in the UK and UK nationals in the EU](#)," a policy paper from the U.K. Department for Exiting the European Union.

2 See "[Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018](#)," on the Web site for the European Commission.

3 See "[How to prepare if the UK leaves the EU with no deal](#)," published by the U.K. government.

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in the United Kingdom.

The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment and compliance strategies.



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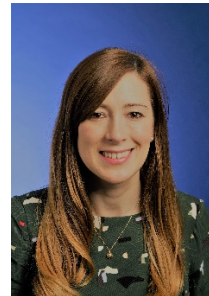
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*\* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

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