

GMS Flash Alert



Immigration Edition

2021-015 | January 12, 2021

Belgium - Brexit: New Update on Immigration Impact

This GMS *Flash Alert* provides an update on the Belgian immigration status of U.K. frontier workers and business travellers who have been performing economic activities in Belgium prior to 31 December 2020 (for prior coverage, see GMS [Flash Alert 2020-478](#) (2 December 2020)). This *Flash Alert* reflects the latest status for the concerned category of employees.

WHY THIS MATTERS

Individuals and companies need to be aware of the new immigration framework that is in place following the end of free movement of British citizens into the European Union (EU) as of 31 December 2020. Appropriate actions need to be taken to foster business continuity within this new reality.

British citizens who had been working in Belgium prior to the end of the transition period are not expected to experience any major changes after 31 December 2020. However, certain action points need to be taken to help ensure their right to work in Belgium.

U.K. Nationals Already Performing Economic Activities in Belgium before 31 December 2020

Frontier Workers / Business Travellers

The report on the current draft Royal Decree¹ amending the Royal Decree of 8 October 1981² regarding access to Belgian territory, as well as residence and establishment rights and conditions, and the removal of foreign nationals stipulates a broad definition for frontier workers.

From a Belgian point of view, and in the context of relations with the U.K. post-Brexit, frontier workers are defined as citizens of the United Kingdom exercising an economic activity in accordance with Article 45 or Article 49 of the Treaty on the Functioning of the European Union, in one or more states in which they are not resident.³ The report expressly confirms that this definition must be applied and not the general, but more strict, definition for frontier workers as determined in article 106 of the current Royal Decree of 8 October 1981.

Consequently, no distinction is made between U.K. frontier workers with a Belgian or a non-Belgian employer. Moreover, U.K. business travellers already having business travel into/out of Belgium prior to 1 January 2021, can also fall under this definition.

U.K. nationals already performing economic activities in Belgium prior to 1 January 2021, will be able to continue working in Belgium.⁴ Should these categories of employees not yet have obtained the Belgian Annex 15 for frontier workers, they should have done so prior to 31 December 2020, to help ensure compliance.

The U.K. frontier workers and business travellers, working in Belgium but residing in the U.K., will later on be able to exchange their Annex 15 for an "N-card" in order to safeguard their right to work in Belgium. The N-card will have to be obtained at the Belgian commune of the place of employment.⁵

Further details on the process and conditions to obtain an N-card have not yet been communicated by the Belgian authorities.

KPMG NOTE

We recommend filing for an Annex 15 for frontier workers in respect of the concerned employees.

Any questions or concerns regarding the status of British citizens working in Belgium should be directed to your qualified professional services professional or a member of the team (see Contact Us section) with the KPMG International member firm in Belgium.

FOOTNOTES:

1 This report is not yet accessible/available to the general public.

2 The Royal Decree of 8 October 1981 regarding the access to the territory, residence, establishment and removal of foreign nationals, B.S. 27 October 1981 (*8 Octobre 1981 - Arrêté royal sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers*).

3 Article 3 of the draft Royal Decree amending the Royal Decree of 8 October 1981 regarding the access to the territory, residence, establishment and removal of foreign nationals, not yet published.

4 Immigration Office website (in Dutch): <https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/Brexit.aspx>

Brussels Regional Public service website (in English): <http://werk-economie-emploi.brussels/en/permit-british-workers>,

Flanders Regional Public service website (in Dutch): <https://www.vlaanderen.be/als-buitenlander-in-vlaanderen-komen-werken/britse arbeidskrachten-in-het-vlaams-gewest-in-2021>

5 Brussels Regional Public service website (in English): <http://werk-economie-emploi.brussels/en/permit-british-workers> .

Flanders Regional Public service website (in Dutch): <https://www.vlaanderen.be/als-buitenlander-in-vlaanderen-komen-werken/britse arbeidskrachten-in-het-vlaams-gewest-in-2021> .

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Contact us

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* Please note that KPMG LLP (U.S.) does not offer immigration services or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.

The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.

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