



GMS Flash Alert

Immigration Edition

2018-099 | July 17, 2018



United Kingdom – White Paper Takes Further Steps to Clarify Post-Brexit Relationship

On 12 July 2018, the U.K. government published its White Paper, *The future relationship between the United Kingdom and the European Union*.¹ The document sets out the U.K.'s vision for areas such as goods and services, law enforcement, security, data protection, and mobility. This *GMS Flash Alert* focuses on the mobility framework.

The U.K. has made clear that free movement of people across the U.K. and the EU will end on 31 December 2020. The current free movement regime enables EU nationals and family members to come into and out of the U.K., including allowing some in qualifying categories, e.g., workers or self-employed, to live in the U.K. without any immigration restrictions.

Beginning 1 January 2021, the U.K. is seeking a new framework that will allow it to control its borders while enabling U.K. and EU citizens to continue to travel, and businesses to provide services, in line with arrangements that the U.K. might want to offer other close trading partners in the future.

WHY THIS MATTERS

The U.K. will officially leave the EU on 29 March 2019. The U.K. government has previously released information setting out the requirements EU citizens will have to comply with during the period 30 March 2019 to 31 December 2020.²

It is important for businesses to prepare for the end of free movement as it is currently known in 2020. Employers should make sure they are aware of how EU employees already resident in the U.K. will be affected, as well as those in their cross-border workforce.

They should also begin to prepare now for a possible reduction in availability of EU employees by considering how that will affect their operations. Increased costs and timelines of bringing EU citizens to the U.K. from January 2021 will also have to be factored into budgets going forward, as well as increased right to work requirements in line with current regimes. Currently European Economic Area (EEA) nationals will only have to be checked once at the start of their employment. Under the new scheme, all those without settled status will have to be checked as their permission to stay in the U.K. comes to an end, just like non-EEA nationals currently. Thus the human resource burden of tracking and checking will increase.

U.K. Government's Vision for the Future

While the White Paper provides quite a bit of information pointing the way forward, further details will come later in the year in the form of an official U.K. Immigration Bill, which will bring EU migration under U.K. law. The Migration Advisory Committee is to issue its report in September 2018, which will include a summary of the views of over 400 U.K. businesses that responded to the consultation on the future of EU and non-EU migrants in the U.K. labour market.

Business Migration

The U.K. government will seek reciprocal arrangements that allow U.K. nationals to visit the EU without a visa for short-term business reasons and equivalent arrangements for EU citizens coming to the United Kingdom. Work would be permitted in limited and clearly defined circumstances and in line with current business visa policy.

The U.K. will further seek reciprocal arrangements on intra-corporate transfers and allow U.K. and EU-based companies to train staff, move them between locations, and deploy their expertise where needed, similar to arrangements already in place in relation to non-EU nationals.

Discussions will also be sought regarding facilitating temporary mobility of employees providing services, scientists and researchers, the self-employed, and investors.

Tourism and Students

The U.K. proposes reciprocal visa-free travel for U.K. and EU citizens for tourism going forward.

Students would benefit from a U.K.-EU youth mobility scheme, similar to the existing youth mobility scheme for certain non-EU countries.

Other Considerations: Social Security, Qualifications, Trade

The U.K. will seek reciprocal arrangements around some elements of social security co-ordination so that workers only pay social security in one state at one time. This includes continuing the application of aggregation principles for people who have paid social security in multiple countries.

The U.K. proposes creating a system based on the current EU Mutual Recognition of Qualifications Directive, and goes further than some aspects of current arrangements typically found in trade agreements, which tend to only give a mechanism to facilitate mutual recognition, not give automatic recognition. The U.K. is looking towards automatic recognition. The system should enable professionals to provide services across the U.K. and EU.

Trade agreements that include trade-in services would include provisions to facilitate the mobility of people providing these services.

All future arrangements should benefit from streamlined border arrangements and administrative procedures.

An Evolving Vision

The prime minister's Chequers statement from 6 July 2018, set out:

- that the U.K. will end free movement, giving back control to the U.K. over how many people **enter** the country;
- the inclusion of a mobility framework so that U.K. and EU citizens can continue to travel to each other's territories, and apply for study and work.³

The White Paper has built on this, and states that control will not just be imposed over who enters but who **lives**, i.e. settles, in the U.K.; and it includes a new framework that respects the U.K.'s control of its borders.

KPMG LLP (U.K.) NOTE

A New Immigration System for EU Nationals

The potential options for a post-Brexit immigration system for EU nationals are broadly as follows:

1. A new Common Travel Area? The U.K. could adapt free movement rights to be more akin to short-term business/leisure/study travel without an automatic right to live and settle. The U.K./EU could create a "Free Travel Area" similar to the Common Travel Area between the U.K. and Ireland, but without the automatic settlement or preferential residency rights.
2. The U.K. could apply the non-EU system to all migration. Recent events (e.g., the Windrush scandal⁴ and exceeding the cap on Tier 2 (General) visa applications since December 2017) have called the current U.K. system into question and exposed the limitations of a system in which highly skilled workers have precedence over equally vital but less well-paid or junior staff. The current non-EU system worked when it was supplemented by lower-skilled workers coming in from the EU. It clearly needs an overhaul if there is no new lower-skilled route. For example, considering skills required and not assuming a degree are always evidence of a highly skilled individual.
3. The U.K. could create a new immigration system in which preferential access is given based on trade agreements with the United Kingdom. This may be coupled with wider reform of the immigration system for the rest of the world, or the new agreements may run parallel to the existing U.K. immigration system.

Does Anything Change for Current EU Nationals?

The Chequers statement and White Paper do not change the status of current EU nationals (at least until 31 December 2020) and do not address the system of applying for pre-settled and settled status that will open later this year.

FOOTNOTES:

- 1 See [The future relationship between the United Kingdom and the European Union](#).
- 2 See [EU Settlement Scheme statement of intent](#). Also; see GMS [Flash Alert 2018-88](#) (22 June 2018).
- 3 To see the U.K. government's "Statement from HM Government, Chequers, 6 July 2018," click [here](#).
- 4 To address post-war labor shortages in the U.K. in 1948, the MV Empire Windrush brought workers from Jamaica, Trinidad and Tobago and other islands. The ship had 492 passengers, many of them children. Because many never obtained the correct immigration papers for the U.K., when the U.K. tightened up immigration checks in recent years, many of these migrants – known as the "Windrush generation" – were unable to prove their right to live and work in the U.K., with often devastating consequences of losing their jobs and their accommodations. To see a news report on the matter, readers may refer to the BBC (online) article of 18 April 2018, "[Windrush generation: Who are they and why are they facing problems?](#)" *Please note that the BBC.co.uk is a 3rd party (non-KPMG, non-governmental) website. Providing this link in no way represents an endorsement or a recommendation for this site.*

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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.

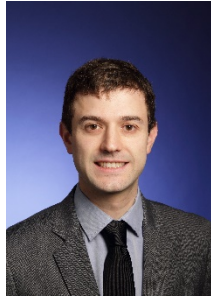
The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment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



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