



GMS Flash Alert

Immigration Edition

2019-017 | January 31, 2019



Denmark - Government Makes Preparations for "No Deal" Brexit

With the aim of securing the rights of U.K. nationals in Denmark in the event of a situation where there is no deal for the U.K.'s departure from the European Union ("Brexit), in the second half of February the Danish government will introduce a bill on a transitional period.¹ The bill will become effective as of 30 March 2019.

The transitional period will allow U.K. nationals in Denmark to maintain the rights they have as EU nationals for a period of time after Brexit happens on 29 March 2019. The transitional period will remain effective until it is replaced by other legislation.

WHY THIS MATTERS

After Brexit, U.K. nationals are no longer European Union (EU) nationals and thus can no longer claim residence in an EU or European Economic Area (EEA) member state on the basis of the EU treaty. As a result, they will be subject to rules and conditions similar to those afforded third-country nationals in Denmark. The measures that are planned should help address many of the uncertainties and concerns in respect of U.K. nationals living and working in Denmark in the event of a no-deal Brexit.

Changes in Detail

Immigration

Those U.K. nationals and their family members who have taken up residence in Denmark prior to 29 March 2019, will maintain their right to residence and they will be able to work in Denmark without having to apply for a work permit. U.K. nationals posted to Denmark will be allowed to continue their posting as planned without any additional requirements for residence and work permits.

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KPMG NOTE

U.K. nationals who are in Denmark but have not registered their residence are encouraged to do so before 29 March 2019.

Family Reunions and Extraditions

The objective of the transitional period is largely to maintain the current status of the U.K. nationals in Denmark with the exception of two areas, family reunions and extraditions.

Family Reunions

U.K. nationals who have taken up residence in Denmark prior to 29 March 2019, will be able to reunite with their family members according to the more lenient rules that apply to EU nationals if their family members have taken up residence in Denmark *prior to* 29 March 2019. Children born to or adopted by U.K. nationals after 29 March 2019, will be covered by the transitional period.

This means that U.K. nationals in Denmark who want to reunite with their family members *after* 29 March 2019, will be subject to the rules and conditions for family reunions for third-country nationals, which, in general, provide for less lenient procedures than the one that applies to EU nationals.

Extradition

After 29 March 2019, U.K. nationals will not be protected against extradition under EU legislation when they commit criminal acts.

Social Security

U.K. nationals posted to Denmark *prior to* 29 March 2019, will maintain their social security-related rights (and obligations) during the transitional period.

U.K. nationals posted from Denmark to another EEA country, however, will not be eligible for A1 certificates *after* 29 March 2019. This is because Denmark has an exemption from applying EU Regulations for social security to third-country nationals. Nonetheless, depending on the host country, U.K. nationals can maintain certain rights on the basis of other international agreements – e.g. Nordic Agreement for social security – but this must be assessed on a case-by-case basis.

This means that, in terms of social security, the movement of U.K. nationals from Denmark to other EEA countries will be affected in case of a no-deal Brexit after 29 March 2019.

KPMG NOTE

The position of U.K. nationals posted to Denmark (and vice versa) after 29 March 2019 is still unclear.

KPMG NOTE

The KPMG International member firm in Denmark recommends to employers with U.K. nationals in Denmark to be aware of the fact that Denmark has an exemption from applying EU Regulations for social security to third-country nationals. This will affect, therefore, U.K. nationals to other EEA countries after 29 March 2019, as they will no longer be subject to EU law.

Further, Danish national legislation has undergone changes in terms of benefits, most recently unemployment benefits, by introducing a residence requirement. This means that in order for a person to qualify for a benefit, it is no longer enough to meet the requirements for working hours and salary. A person must reside in Denmark or another EU country for a number of years in order to qualify. After 29 March 2019, the U.K. is a third country and unless something else is agreed by that time, residence in the U.K. post Brexit – i.e., Danish nationals living in the U.K. – will not be aggregated for entitlement to these benefits.

FOOTNOTE:

1 See the Danish Ministry of Immigration and Integration web page (in English): <http://uim.dk/brexit/brexit-how-does-it-affect-you-as-a-british-citizen-living-in-denmark/if-the-withdrawal-agreement-is-not-approved> .

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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.*

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

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