



# GMS Flash Alert

## Immigration Edition

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# Denmark - Law Passes on Status and Rights of U.K. Nationals if “No-Deal” Brexit

The central elements in new legislation<sup>1</sup> promulgated in Denmark dealing with a “no-deal Brexit” scenario are that U.K. nationals who reside and/or work in Denmark before Brexit will not be required to apply for residence and work permits and the transitional period is not limited in time.

This also means that any U.K. commuters to Denmark who began commuting before Brexit will not be required to apply for a work permit.

We reported the intention of the Danish government to adopt measures in case of a no-deal Brexit in GMS [Flash Alert 2019-017](#) (31 January 2019). Following up on that report, on 19 March 2019, the government passed a bill that outlines rules for a no-deal Brexit.<sup>2</sup> That bill passed without significant changes as compared to the proposals we reported on in January.

The new legislation is slated to enter into force when the U.K. exits the EU.

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## WHY THIS MATTERS

After Brexit, U.K. nationals are no longer nationals of an EU country and thus can no longer claim residence in an EU or European Economic Area (EEA) member state on the basis of the EU treaty. This means that U.K. nationals will be subject to rules and conditions similar to those afforded third-country nationals in Denmark and the rest of the EU.

The new legislation passed by the Danish government on 19 March addresses the uncertainties and concerns in respect of U.K. nationals living and working in Denmark in the event of a no-deal Brexit. However, U.K. nationals in Denmark pre-Brexit, or planning to travel to Denmark post-Brexit to take up work and/or residence, are advised to discuss their situations and plans with immigration counsel and/or their global mobility advisers and tax professionals.

# Transitional Measures in Brief

## Immigration

As noted in our earlier report, those U.K. nationals and their family members who have taken up residence in Denmark prior to Brexit 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 Brexit. If it is not possible to get the EU registration proof due to the lack of a permanent address in Denmark (for instance, the individual is a cross-border commuter), it would be prudent to keep documents that prove the individual's commuting status before Brexit, e.g., commuting contract/agreement.

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## Social Security

In the event of a no-deal Brexit, the U.K. would no longer be a party to the existing EU social security regulations. Furthermore, the old bilateral agreement on social security between Denmark and the U.K. dating back to 1956 will not apply, which means that mobility between Denmark and the U.K. post-Brexit will be regulated by national legislation on social security in each country.

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

As we indicated in our earlier report, U.K. nationals posted from Denmark to another European Economic Area (EEA) country, however, will not be eligible for A1 certificates after the date of Brexit. 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 the event of a no-deal Brexit.

U.K. nationals posted to/working in Denmark *post-Brexit* will be covered by national legislation in Denmark and possibly by the national legislation of the United Kingdom.

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## KPMG NOTE

Please note that Denmark is a part of the Nordic Convention on social security that extends the application of EC Regulations on social security to third-country nationals within the Nordic countries<sup>3</sup>. In this context, Denmark has applied the requirement for residence in a Nordic country strictly and according to national legislation<sup>4</sup>. At this point, it is unclear if Denmark will apply the Nordic Convention to third-country nationals with temporary stay and work in a Nordic country.

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## FOOTNOTES:

1 For the text and status (in Danish) of *L 166 Forslag til lov om videreførelse af visse rettigheder i forbindelse med Det Forenede Kongeriges udtræden af Den Europæiske Union uden en aftale*, click [here](#).

For other information in English on developments regarding a no-deal Brexit and the ramifications for U.K. nationals in Denmark, see the Danish Ministry of Immigration and Integration web page, click [here](#).

2 Ibid.

3 Parties to the Nordic Convention on social security: Denmark, Sweden, Norway, Finland, and Iceland.

4 Article 5 in Nordic Convention on Social Security from 12 June 2012.

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## Contact us

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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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