



# GMS Flash Alert

Immigration Edition

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## United Kingdom - Latest Immigration Updates

In this *GMS Flash Alert* we report on several recent developments in the U.K.'s immigration rules concerning the European Union (EU) Settlement Scheme, "Right to Work" and "Right to Rent" rules/policies, new countries added to the "traffic light" system for international travel, and various visa rules.

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### WHY THIS MATTERS

These changes can impact the cross-border movement of travellers and workers, with deadlines (and some flexibility around those deadlines), visa extensions, new immigration routes, and regulation around travel due to the coronavirus pandemic. They will also affect the obligations and processes imposed on employers to prevent illegal working.

As the rules are changing frequently, travellers and employers with workers from overseas should stay in touch with their travel agents and qualified immigration counsel to make sure they mitigate disruption to travel and business plans and stay in compliance.

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### EU Settlement Scheme Application Deadline

The deadline for applications to the EU Settlement Scheme passed on 30 June 2021.<sup>1</sup> From 1 July 2021, the rights of an EU national or his/her family member who was resident in the U.K. by 31 December 2020, but did not make an application to the EU Settlement Scheme by the 30 June deadline are not protected by U.K. law. This includes their rights to live, work, study, and access benefits and services in the United Kingdom.

An EU national or his/her family member who was resident in the U.K. by 31 December 2020, but has reasonable grounds for failing to apply before the EU Settlement Scheme deadline, can submit a late application. Whilst the Citizens Rights Agreement gives indefinite scope for a late application to be submitted by those who are eligible for status under the EU Settlement Scheme, the more time that has elapsed since the 30 June 2021 deadline, the more difficult it will be to demonstrate those reasonable grounds.

The government has also set out a separate transitional measure for EU nationals employed before the 30 June 2021 deadline, but who are found by their employers to not have status under the EU Settlement Scheme. If eligible for the EU Settlement Scheme, they will have 28 days to submit an application, and can then provide the relevant documents to evidence their right to work once their application has been submitted. So long as the original right to work check was taken correctly, the employer will maintain a statutory excuse against illegal working. If the employee is not eligible for the EU Settlement Scheme, however, the employer must instead take steps to end his or her employment. This transitional measure is in place until 31 December 2021.

## Right to Work Changes from 1 July

- Employers do not need to retrospectively check the status of anyone that already works for them before 1 July 2021. (For prior coverage, see [GMS Flash Alert 2019-072](#), 9 April 2019.)
- Anyone who applies to the EU Settlement Scheme by the 30 June 2021 deadline will have his or her existing rights protected by law pending the outcome of his or her application.
- Job applicants with a pending application to the EU Settlement Scheme will be able to use their Certificate of Application as proof of their right to work, pending the outcome of their application.
- Information for employers on checking EU, European Economic Area (EEA), and Swiss citizens' right to work from 1 July 2021, has been updated on GOV.UK.<sup>2</sup> However, see some key highlights on this below.
  - Frontier workers are EEA citizens who are resident outside the U.K. but are in the United Kingdom. From 1 July 2021, frontier workers should hold a Frontier Worker permit when entering the United Kingdom. (For related coverage, see [GMS Flash Alert 2020-446](#), 3 November 2020.) An employer should check the status of any frontier worker travelling to the U.K. for work after this date. An online right to work check can be completed as normal under the new guidance.
  - Irish passport holders continue to have unrestricted access to work in the United Kingdom. From 1 July 2021, they can still prove their right to work using their Irish passport or Irish passport card, or their Irish birth or adoption certificate together with an official document giving the person's permanent National Insurance number and his or her name issued by a government agency or a previous employer.

## Right to Rent Changes from 1 July

The Home Office has updated its "Landlord's guide to right to rent checks" for the end of the grace period on 30 June 2021. It makes a number of changes, including setting out in detail the position for landlord checks for EEA and Swiss citizens renting accommodation on and after 1 July 2021.

## New Categories Opening from 1 July

**Graduate route** – The new Graduate route opened for applications on 1 July 2021. For related coverage, see [GMS Flash Alert 2020-446](#), 3 November 2020.) Eligible students holding a Tier 4 or Student visa valid on or after 1 July 2021 will have the opportunity to apply to stay in the U.K. for two years (three years for doctoral students) to work or seek employment.

## COVID-19 Concessions Extended

- ➔ **Adjusted right to work checks** – As confirmed in our previous update, the current adjusted right to work processes will remain in place until 31 August 2021. From 1 September 2021, employers will need to revert to the standard practice as outlined in the new guidance.<sup>3</sup>
- ➔ **Visa extensions for health workers during COVID** – The 12-month visa extensions for health workers which were introduced last year have now been extended for a further six months until 30 September 2021. This includes overseas recruits whose leave expires between 1 April 2021 and 30 September 2021.
- ➔ **Working in England if you are a senior executive bringing significant economic benefit to the U.K.** – From 29 June 2021, a request can be made by a “senior executive” to temporarily leave quarantine in England if he or she is undertaking business activities which are likely to be of significant economic benefit to the United Kingdom. A person is considered to be bringing “significant economic benefit” if the work he or she is doing has a greater than 50 percent chance of creating or preserving at least 500 U.K.-based jobs in either (i) an existing U.K.-based business which has at least 500 employees or (ii) a new U.K. business within two years of the date he or she arrives in the United Kingdom. The person must quarantine at all other times, and decisions are discretionary.

## “Red List” Countries

Following the government’s introduction of the “traffic light” system for international travel, from 04:00 on 8 June, seven additional countries have been added to the red list<sup>4</sup> for travel to England. These countries are: Afghanistan, Bahrain, Costa Rica, Egypt, Sri Lanka, Sudan, and Trinidad & Tobago.

From 04:00 am on 30 June, six additional countries were added to the red list for travel to England. These countries are: Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia, and Uganda.

U.K. Visas and Immigration (UKVI) will continue to issue all categories of visas in green and amber locations subject to customers meeting the relevant immigration rules. In red locations, UKVI will continue to pause issuing Visit visas to customers and will continue to process all other visa categories.

The red, amber, and green system sets out the rules travellers must follow to enter England. Separate guidance is available for travellers entering Wales, Scotland, and Northern Ireland.

Travellers arriving in England from a “green list” country will no longer be required to quarantine, unless their COVID-19 test results are positive, or if they are informed by NHS Test & Trace that someone they travelled with tested positive for COVID-19.

Travellers arriving from an “amber list” country who are fully “U.K. vaccinated” will also not need to quarantine, unless their day two test results are positive. However, these rules do not apply to travellers who have been in France in the 10 days prior to arriving in England, and those travellers must book tests and quarantine on arrival, regardless of whether they have been fully U.K. vaccinated.

Travellers who arrive in England from a green list country, but travelled through a country on the red or amber lists in the 10 days prior to arriving in England, will need to follow the rules for travellers arriving from that red or amber list country.

The traffic light system will be reviewed every three weeks, or earlier if the government believes it necessary to react to an increasing risk level.

## FOOTNOTES:

1 For more on the EU settlement Scheme, see our report in [GMS Flash Alert 2019-056](#), 26 March 2019. Also see this U.K. government website: <https://www.gov.uk/settled-status-eu-citizens-families> .

2 See: “Right to work checks: employing EU, EEA and Swiss citizens,” at: <https://www.gov.uk/guidance/right-to-work-checks-employing-eu-eea-and-swiss-citizens#history> .

3 See “Right to work checks: employer guidance” at: <https://www.gov.uk/government/collections/right-to-work-checks-employer-guidance> .

4 The traffic light system refers to the rating given to countries and the rules that must be followed to enter England. See this link: <https://www.gov.uk/guidance/red-amber-and-green-list-rules-for-entering-england> .

For further information on red, as well as amber and green, list countries, see “Red, amber and green list rules for entering England” at: <https://www.gov.uk/guidance/red-amber-and-green-list-rules-for-entering-england#red-list> .

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## Contact us

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

The KPMG Law – 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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*\* 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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