

# PREPARE TO BREXIT: 78 Days and Counting...

With the vote in the UK Parliament on the controversial Brexit withdrawal deal between the United Kingdom and the European Union *now slated for the week of 14 January*, chances of its passage look slim, and chances of a no-deal Brexit are rapidly increasing. The withdrawal of the UK from the EU is now expected on 29 March 2019 – unless the UK's *Article 50* notice is extended. Whether there is a **deal or no-deal**, the UK's withdrawal from the EU **impacts all aspects of the relationship – including immigration, permanent residency, visas, and work permits.**

## What Difference Does *Deal* or *No-Deal* Make?

Absent an extension of Article 50, the UK will no longer be part of the EU on 30 March. Therefore, the current EU laws, policies, and tenants – *including those on freedom of movement and immigration* – are no longer binding on the UK. Conversely, UK citizens will no longer enjoy the benefits of the current EU laws, policies, and tenants when residing and traveling in the EU. *That is... unless the UK and EU agree to extend some or all of the current framework past the 29 March withdrawal.*

## What Does Immigration Look Like with a *Deal*?

*With a withdrawal deal in place, the post-29 March immigration picture is fairly clear.* The UK has set forth

in detail the immigration policy that it will follow from 29 March through the *transition period* lasting until 31 December 2020 and beyond.

The **Settlement Scheme** to normalise the immigration status of EU nationals in the UK is set to open 21 January in testing phase and be fully open by 30 March – allowing EU nationals in the UK to register for **settled status** (permanent residency) or **pre-settled status** (leading to permanent residency), depending on their time already in the UK. Under the scheme, EU nationals arriving in the UK through the end of the *transition period* on 31 December 2020 will be eligible for settled or pre-settled status.

The **White Paper** published 19 December on the future of the UK's skills-based immigration system for European Economic Area (EEA) nationals *after* 31 December 2020 provides a fair degree of certainty as to what the UK's immigration system for EU nationals will look like long-term. While not yet law, **that policy paper essentially confirms that EEA nationals coming to work in the UK will be**

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treated the same as non-EEA nationals under the current points-based system. The following is a quick *snap-shot* of the major points most applicable to business:

#### SKILLED WORKERS

- **Overall cap** on the number of visas for skilled workers (*Tier 2 General visa cap*) **will be eliminated**.
- **Skills threshold will be lowered** to include RFQ levels 3 - 5 (*A level equivalent*).
- **Resident Labour Market Tests (RLMT)** for skilled workers **will be eliminated**.
- **Sponsorship system** is to be made **“as straightforward and light-touch as possible”**.

#### LOW-SKILLED WORKERS

- **Limited to twelve-month visas**.
- **Limited to nationals of specified low-risk countries to be negotiated individually later**.
- **No access to public funds, extended stays, switching to other routes, or permanent settlement**.

#### VISITORS

- **No visit visas required for EU nationals**, including for **business purposes and certain paid activities**.
- **Electronic Travel Authorisation (ETA)** system to be introduced.

#### COMMON TRAVEL AREA (CTA)

- **British and Irish citizens** will continue to **travel freely** within the CTA **without immigration controls, residence permits, or work permits**.

The policy paper also proposes a reciprocal two-year work and study **Youth Mobility Scheme** for UK and EU nationals

aged 18 - 30. **International students** will also be given the option of switching to the skilled worker visa route upon graduation.

The **various EU member states** have not yet formally announced the particulars of their national immigration policies. However, **they are likely to reciprocate the policy followed by the UK**.

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### What Does Immigration Look Like with No-Deal?

**With no withdrawal deal in place, the post-29 March immigration picture becomes blurrier**. Much of the UK's immigration policy outlined above is contingent on it being reciprocated by the various EU member states. While this is highly likely, neither the UK's positions nor the EU member states' positions are guaranteed in the event that the UK exits the EU on 29 March with no withdrawal deal in place.

The most immediate impact on immigration of a no-deal scenario would be the absence of any **transition period – currently proposed to last until 31 December 2020**. Presumably, both the UK and the EU are now preparing contingency plans for immigration in the event of *no-deal* by 29 March. **Neither side currently have plans to immediately impose visa requirements on UK and EU nationals entering their respective countries**.

However, EU nationals should be aware that deadlines to exercise their rights to settlement under the UK's **Settlement Scheme** markedly tighten if there is no *transition period*. **Most significantly, EU nationals would have to be in the UK before 29 March 2019 in order to be guaranteed the right to apply for settled and pre-settled status to remain in the UK**. Presumably, the converse would be true for UK nationals in EU member states as well.

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**BOTTOM LINE: Until Parliament's vote on the Brexit withdrawal deal expected next week, we continue to be stuck between *two possible futures* when it comes to business immigration and travel between the UK and the EU – *deal or no-deal*. Therefore, **all companies and individuals are advised to prepare for both**.**

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