



BREXIT IMMIGRATION BRIEFING – WHAT WILL HAPPEN IF THERE IS A ‘NO DEAL’?

On 4 September 2019, the Home Office set out the arrangements that will apply to EU citizens¹ who move to the UK after Brexit, should the UK leave the EU without a deal.

These arrangements replace those set out in the policy paper published in January 2019.

EU citizens entering the UK after brexit

Until 31 December 2020, EU citizens and their family members will be able to travel to the UK and live, study and work as they do now. During this time, they will have the option to apply for a new immigration status known as ‘European Temporary Leave to Remain’ (Euro TLR).

Applications for Euro TLR will be voluntary, online and involve an identity, security and criminality check. It is intended that the process will be simple, free and made after arrival in the UK. Successful applicants will be granted a period of 36 months’ leave to remain in the UK, running from the date the leave is granted.

The aim of this new scheme is to provide EU citizens with some certainty of their status during the transition period. It will also provide EU citizens with a bridge into the new immigration system which is due to be introduced in January 2021, as those who hold Euro TLR will only be required to apply to the new immigration system when their 36 months’ Euro TLR leave expires, but they can apply beforehand if they would prefer to.

Where an individual who holds Euro TLR does not meet the requisite criteria under the new immigration system or otherwise does not have a right to remain in the UK, they will be expected to leave the UK when their Euro TLR expires. It is therefore important to note that Euro TLR only provides a temporary stay in the UK for some EU citizens.

If an EU citizen moves to the UK for the first time after Brexit, and does not apply for Euro TLR, they will need to leave the UK by 31 December 2020 unless they have applied for and obtained a UK immigration status under the UK’s new immigration system.

EU citizens moving to the UK in 2021

As mentioned above, the government intends to introduce a new immigration system from January 2021. EU citizens and their family members who move to the UK after Brexit, and do not hold Euro TLR, will need to apply for immigration status under this new system.

Key issues

- Free movement in its current form will end on at 11pm on 31 October 2019, but much of its framework will remain in place until 31 December 2020.
- EEA citizens in the UK **before** 31 October 2019 will have their rights to live and work protected by the EU Settlement Scheme, but the deadline to apply for status under this Scheme is 31 December 2020.

¹ References to EU citizens also include citizens of Iceland, Liechtenstein, Norway and Switzerland.

Eu citizens resident in the uk before brexit on 31 october 2019

EU citizens and their family members resident in the UK pre-Brexit can apply for UK immigration status under the EU Settlement Scheme, which will enable them to continue to stay here. They will have until at least 31 December 2020 to apply, even if the UK leaves the EU without a deal.

What is the eu settlement scheme ?

This scheme affords the same rights of residence and access to work that EU citizens and their families currently have under the freedom of movement provisions. It is free to apply and successful applicants will receive either settled or pre-settled status and the difference is as follows:

- **'Settled'** – EEA citizens and certain family members that are in the UK pre-Brexit (and, if relevant, also during any 'transitional period') can apply for 'settled' status under the Scheme if they meet the following requirements:
 - they are an EEA citizen, or a family member of an EEA citizen
 - have been living in the UK continuously for 5 years
 - have started living in the UK before 31 October 2019 in the event of a 'no deal' Brexit
 - have no serious criminal convictions
- **'Pre-settled'** – EEA citizens that are in the UK pre-Brexit but have not been living in the UK for the required 5 year period can apply for 'pre-settled' status which will grant leave to remain with the option to live and work in the UK until they have settled status or for a further 5 years (whichever the shorter).

In the event of a 'no deal' the deadline to apply will be 31 December 2020.

Applying for settled or pre-settled status

Applications can be made online, via an app or on paper. Applicants will need proof of their:

- identity (e.g. valid passport, national identity card or biometric residence card)
- residence in the UK (unless they have a valid permanent residence document or indefinite leave to remain)
- relationship to a family member from the EU living in the UK (if the applicant is from outside the EU)

Applicants will also need to upload a recent digital photograph of their face.

Further steps are required for Non-EU applicants (e.g. a family member) who will need to provide their fingerprints and a photograph of their face at a UK application centre as part of their application, unless they already have a biometric residence card.

CONTACTS



Stephanie Dare
Chartered Legal
Executive, Immigration
T: +44 20 7006 1965
E: stephanie.dare@cliffordchance.com



Michael Crossan
Partner
T: +44 20 7006 8286
E: michael.crossan@cliffordchance.com



Tim Poole
Lawyer
T: +44 20 7006 1156
E: tim.poole@cliffordchance.com

CLIFFORD CHANCE

This publication does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street,
London, E14 5JJ

© Clifford Chance 2019

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571
Registered office: 10 Upper Bank Street,
London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or contact our database administrator by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ.

Abu Dhabi • Amsterdam • Barcelona
Beijing • Brussels • Bucharest
Casablanca • Dubai • Düsseldorf
Frankfurt • Hong Kong • Istanbul
London • Luxembourg • Madrid
Milan • Moscow • Munich • Newcastle
New York • Paris • Perth • Prague
Rome • São Paulo • Seoul • Shanghai
Singapore • Sydney • Tokyo • Warsaw
Washington, D.C.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.