



Business After Brexit: Visas and Immigration Explained

After more than three years of negotiations, political division, speculation, and uncertainty – the United Kingdom officially exited the European Union on January 31 at 11pm. For all the anticipation, February 1 saw virtually no noticeable change from January 31.

That is because the UK and EU entered into an 11-month “transition period” until December 31, 2020 in which the current relationship continues practically unchanged. The existing freedom of movement and cross-border mobility rules between the UK and EU member states remain largely in effect.

What Happens Now?

That is by no means the end of the speculation. The unanswered question remains: “What happens after December 31?” Starting in March, negotiators from the UK and EU will begin to work out the answer to that question. Should negotiations fail to arrive at agreement between the UK and EU by December 31 – we could still face much of the same uncertain outcomes that we experienced leading up to Brexit day. We could still reach the end of the transition period with broad, limited or no agreements, or an extension of the transition period beyond December 31, 2020. The UK government has already stated it does not want an extension.

Despite this 11-month pause on any real practical changes, there is still much individuals and organizations in the UK and EU must do now to prepare for the coming post-Brexit Europe. Despite many remaining questions, here is our quick look at the current status of business immigration and visas in the UK and EU, and actionable guidance for companies to take now.

During the Transition Period

Until December 31, 2020, free movement of UK and EU member state citizens continues. There are no changes in the current rights of UK and EU nationals to live and work in the UK and the various EU and European Economic Area states.

EU CITIZENS IN THE UK

EU citizens in the UK continue to have the right to travel to and to live and work in the UK. EU citizens arriving in the UK before December 31 have until June 30, 2021 to register through the EU Settlement Scheme, and may obtain either “settled status” or “pre-settled status”. Family members in a relationship with an EU citizen before December 31 will be able to join those with settled status at any future date.

Settled Status is for those with five years of residence in the UK. It grants the EU national Indefinite Leave to Remain (ILR). The holder can leave the UK for up to five years and retain this status.

Pre-Settled Status provides a pathway to settlement for those who have yet to qualify for settled status. It is intended for those with less than five years of residence in the UK. It grants the EU national five years of leave to remain after which they will generally be eligible for settled status.

UK CITIZENS IN THE EU

The various EU member states have begun to implement their own country-specific processes for UK nationals to obtain normalized status within their borders. The rules and processes vary by EU member state. In some countries, registration of UK nationals is mandatory. In others, UK nationals in the country obtain their normalized status by automatic right.

After the Transition Period

In general, both the UK and the EU member states must establish rules and processes to govern UK and EU citizens arriving in their respective countries after the transition period.

In the UK, the government has proposed a new immigration policy, slated for implementation in January 2021. Under this new policy, EU nationals will be treated the same as non-EU nationals. The key points are as follows:

- Suspending the annual cap on skilled workers (currently 20,700);
- Removing the resident labour market test;
- Allowing employers to sponsor skilled foreign workers at lower salaries and skill levels than currently;
- Reducing the salary threshold for new entrants by 30%;
- Reducing the salary threshold for shortage occupations and highly-skilled workers;
- Presenting the rules balancing shortage occupations, high qualifications and minimum salaries as a points-based system, with a total of 70 points required to be eligible to apply;
- Expanding the pilot scheme for seasonal agricultural workers to 10,000 places;
- Including students, but not family reunion or asylum, in the points-based system;
- No special route for lower-skilled workers or self-employed people;
- The new Global Talent route has already replaced the Tier 1 (Exceptional Talent) route for top scientists, researchers and mathematicians.

In the EU, UK nationals arriving to the EU after the transition period are expected to be under the visa and immigration formalities that third-country nationals face currently. Various EU-wide policies and directives, in some cases not previously applicable to UK nationals, will now apply, including:

- Blue Cards;
- Intra-corporate Transfer permits and processes;
- Van der Elst case law.

Business travel is the one area where we have a more solid idea of requirements for UK citizens in the EU due to the EU's common visa policy for the Schengen area. UK citizens will be able to stay in the whole of the Schengen area on tourism or business status for up to 90 out of each 180 days. They will not require a visa for this, however, entry requirements for UK citizens to the Schengen area after the transition period will include:

- Passports must have a validity of at least six months;
- They must be able to justify the purpose of travel;
- They must show financial means for their stay;
- They must have an itinerary for their stay;
- They must have comprehensive sickness insurance; and
- They must prove the stay will not exceed 90 days in 180 days.

What Should Employers Be Doing Now?

While specific processes will become clearer throughout the year as UK-EU negotiations progress and firm immigration policies are announced, there are general actions employers of UK and EU nationals should be taking now in preparation:

- Regarding business travel, employers should be tracking the number of days their UK employees are spending in the Schengen area to maintain compliance with the 90/180 days rule.
- Employers sending UK employees into the EU should be assessing the activities performed to determine whether work permits will be required after the end of the transition period.
- For EU national employees living and working in the UK, employers should ensure that they are registering for settled and pre-settled status.
- For UK national employees living and working in EU member states, employers should determine the local rules and processes for registration and ensure that employees are registering.
- Employers that are considering hiring or moves of UK and EU employees should consider whether it would be advantageous to complete the move prior to the end of the transition period.
- Employers should begin now to assess their future labor needs and budgets for after the transition period.

How Can We Help?

Throughout the years leading up to Brexit day, Newland Chase has been preparing clients with strategic guidance on how best to respond to the uncertain future. Now that we have entered the transition period and the negotiation of the future relationship between the UK and EU, immigration policy on both sides should become clearer. This year is a critical period for employers to ensure they have a successful strategy in place for the coming post-Brexit Europe.

If you are a Newland Chase client, we have already been in communication with you about your company's strategy. As always, please reach out to us whenever you have questions and concerns.

If you do not yet have Newland Chase as your trusted visas and immigration partner, **Contact Us** today for a no-obligation consultation to assess your business needs and how, together, we can continue your success through this period of transition and into the years thereafter.