



The UK has voted to leave the EU Employee considerations for you

The UK's decision to leave the European Union (EU) will inevitably cause a period of uncertainty for businesses and employees. We have put together this brief guide to Brexit to offer an insight into what is likely to happen next and the potential issues to consider for immigration and internationally mobile employees.

The process for the UK leaving the EU is governed under "Article 50 of the Treaty of Lisbon", however the key point to stress is that the negotiations to exit are likely to take at least two years so it is important to remember that nothing will change immediately. Rather than use the term EU, we have used the broader definition of the European Economic Area (the EEA, which is all EU countries plus Iceland, Liechtenstein and Norway), which is used when considering immigration and social security matters.

Immigration

1) If you are an EEA national currently working in the UK

Once Article 50 of the Lisbon Treaty is activated, there will be approximately a 2 year period of negotiation to determine the withdrawal process. During this time there will be no impact on your ability as an EEA national to work in the UK.

2) If you are an EEA national with 5+ years residence in the UK

Any EEA national with 5 years continuous residence in the UK can apply for Permanent Residence, and thus gain reassurance that you will be protected from any future legislative changes. To apply for Permanent Residence you will need to demonstrate that you have been resident in the UK, exercising treaty rights, i.e.

been in employment or self-employment, for at least the last 5 years. We encourage any EEA national who has 5 years residence, or who will have 5 years residence before the official date of exit from the EU, to apply for permanent residence.

3) Irish nationals and the Common Travel Area

At present there is a Common Travel Area made up of the UK and Ireland. There have been some indications that the Common Travel Area will remain and therefore Irish nationals will continue to be able to move freely and work in the UK. This will need to be confirmed during the negotiation period so much like other EEA nationals, if you are an Irish national working in the UK and you meet the necessary requirements, you should apply for Permanent Residence to make sure that your position is protected.

4) If you are a UK national currently working in the EEA

During the period of negotiation, the EU will decide how UK nationals currently living and working in the EEA will be treated. If you have been resident in an EEA country, exercising a treaty right (e.g. working in employment or self-employment) for the past 5 years you may qualify for Permanent Residence in that country. To protect your position it is advisable to make an application for Permanent Residence if you qualify.

5) New UK Immigration legislation to be drafted

Prior to the official exit date, the Home Office will be working on new immigration legislation to address:

- a. The treatment of EEA nationals already resident in the UK
- b. The treatment of Irish nationals and the common travel area
- c. The criteria for non-UK nationals to qualify for work permits to work in the UK after the official exit date

6) If you are an EEA national who will move to the UK in the future

Until the official date of exit from the EU, EEA nationals can continue to move freely in and out of the UK, and to take employment without restriction while here. New legislation to be drafted will confirm how EEA nationals will be treated after the date of exit. At present indications are that any EEA national in the UK working, prior to the official exit date, may be permitted to stay.

7) If you or your family potentially qualify for dual nationality

Many UK nationals qualify for dual nationality with another EEA member state however have not applied as their British passport allowed them free movement throughout the EEA. You may now wish to re-assess if you or your family members qualify for nationality with the other EEA member state.

Social Security

1) If you are an EEA national currently working in the UK

In the short and possibly medium term, nothing will change. The status of employees working in the UK with A1 certificates will not change and you will remain exempt from UK National Insurance.

2) If you are an EEA national who will move to the UK prior to the official date of exit from the EU

New internationally mobile employees applying for A1 certificates (these exempt you from UK National Insurance Contributions (NIC) on the basis you are liable to contributions in another EEA country), will have the applications considered under the existing rules. UK outbound internationally mobile employees will continue to remain subject to NIC if you have an A1, and new A1's will be issued by HM Revenue and Customs. EU-wide rules on sickness, pension and unemployment benefits remain in force and both UK and European authorities will have a 'business as usual' approach in the near term.

3) If you are an EEA national who will move to the UK after the official date of exit from the EU

Once Article 50 of the Lisbon treaty is activated and negotiations begin we will start to see what type of relationship the UK will have with the EU. This could include a complete exit or alternatively an approach that retains formal links such as those enjoyed by Norway and the other EEA countries. Whatever model of exit is chosen, there will be a lengthy period of negotiation and the legislation which applies to individuals moving internationally may change significantly.

The authorities in the UK and their counterparts are very focussed on employee protection and even if the legislative landscape is confused in the medium term, our expectation is that there will be a focus on preserving the entitlements of current internationally mobile employees wherever possible. Ultimately, new social security treaties are likely to provide solutions to questions of coverage and benefits, but this may be many years away, and at this stage, with very few certainties, it is too early to take steps to mitigate any changes in this area.

Tax

At this stage it is not known whether the Chancellor will call an emergency Budget and if there will be increased tax rates.