



The Government has launched what is claimed to be the largest ever public information campaign, aimed at preparing Britain for leaving the EU, urging businesses to check what they need to do to prepare for a no-deal exit. Although a Brexit deal has been agreed, it needs to be ratified. The UK could still leave with no deal on 31 October 2019 if the UK and EU do not approve and sign the withdrawal agreement.

UKWA has prepared a series of fact sheets on key issues surrounding a no-deal Brexit, but for more detail, you should visit:
www.gov.uk/get-ready-brexit-check

HR & Employment Law



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'No-deal' workplace rights

Several employment specific regulations and technical notices have been issued in addition to the European Union (Withdrawal) Act 2018, making various provisions on workplace rights. For example, in the event of a 'no-deal' Brexit, the law around workplace European Works Councils will change and so will employer insolvency arrangements.

There will be no change to the rights and status of EU citizens currently living in the UK until 30 June 2021, or 31 December 2020 if the UK leaves the EU without a deal.

The EU Settlement Scheme

- EU, EEA or Swiss citizens and their families can apply to the EU Settlement Scheme to continue living in the UK after 30 June 2021. The scheme is open now and employees can apply now if they meet the criteria.
- The deadline for applying is 30 June 2021, or 31 December 2020 if the UK leaves the EU without a deal.
- Applicants must be living in the UK before it leaves the EU to apply.
- Successful applicants will get either settled or pre-settled status, depending on how long they have lived in the UK.
- Employees from the EU who have applied for and received a 'pre-settled' or 'settled' status under the EU Settlement Scheme are currently able to use this as evidence of their right to work.
- Applicants need to be living in the UK before it leaves the EU to apply. The deadline for applying will be 31 December 2020.
- **It's free to apply to the scheme.**

Those who arrive in the UK post exit date will be able to apply for Euro TLR (European Temporary Leave to Remain) which gives successful applicants the right to work in the UK for 3 years.

In a no-deal scenario, from 1 January 2021, EU citizens will need to show either pre-settled / settled status, Euro TLR or a visa under the new immigration system.

'No deal' immigration arrangements for EU citizens moving to the UK after Brexit

- The government will introduce a new, Australian-style points-based immigration system from January 2021.
- The independent Migration Advisory Committee has been commissioned to review the Australian system and other international comparators, to advise best practice to strengthen the UK labour market.
- The new immigration system will prioritise skills and what people can contribute to the UK, rather than where they came from. Currently, it has not been confirmed how this system would work in the UK nor what this would mean for employers.
- EU citizens who hold Euro TLR will have a bridge into the new immigration system: if they wish to remain in the UK, they will only be required to apply to the new points-based immigration system when their 36 months' Euro TLR leave expires.
- Those holding Euro TLR who do not meet the requisite criteria under the new immigration system or otherwise have a right to remain in the UK, will be expected to leave the UK when their Euro TLR expires.



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European Works Councils (EWC)

European Works Councils represent the European employees of a company. The government aims to ensure that the existing rights and protections continue to be available. However, in a no deal scenario the UK regulations will be amended so that:

- No new requests to set up a EWC or Information and Consultation procedure can be made
- Provisions relevant to the ongoing operation of existing EWC will remain in force
- Requests for information or to establish EWCs or Information and Consultation procedures made before EU exit, but not completed by EU exit, will be allowed to complete.

UK businesses with European Works Councils, and trade unions that are parties to European Works Council agreements, may need to review those agreements if there are no longer reciprocal arrangements between the UK and the EU.

'No deal' Insolvency arrangements for employees

When an employer becomes insolvent and is also unable to pay statutory redundancy pay, currently it is possible for those affected to claim statutory payments from the state instead. This is claimed from the EU member state the employee lives in.

If your business is UK based, your employees (of UK or EU nationalities) who live and operate in another EU member state, may no longer be entitled to receive payments (such as statutory redundancy pay) from the state that they operate in post-Brexit, if the UK leaves without a deal.

People living and working in the UK will continue to be protected as they previously were. This only affects employees of UK organisations, living and working in another member state and in the event of a no-deal exit.

This may mean that liability could lie solely with the employer. We would advise that any forecasting should take this possibility into account, especially if liability is not limited.

Data Protection

The UK is committed to maintaining the standards of the GDPR and the government plans to incorporate it into UK law alongside the DPA 2018 after Brexit.

- When UK exits the EU, transfers from the UK to the EEA will not be restricted. There will be transitional provisions for a UK adequacy decision to cover these transfers.
- The UK government intends to recognise existing EU adequacy decisions, approved EU SCCs and BCRs wherever possible post Brexit
- Transfers from the EEA to the UK will need to comply with GDPR transfer restrictions.
- Consider whether restricted transfers apply to you.

Travelling and Driving in Europe

- If the UK leaves the EU without a deal, then you should have at least 6 months left on your passport to travel to most countries in Europe. It should also be fewer than 10 years old.
- The European Health Insurance Card (EHIC) may not be valid after Brexit. You should make sure your travel insurance covers your healthcare needs.
- Check for further information on driving on company business.

Working in Europe

- Check the country that the employee is working in as to the rules that apply
- Check the Insurance you have for the employee
- Check with your mobile phone operator about any roaming charges after 31 October 2019
- Check rules set by the country for sending personal data (as set by member state).

Contact Sue with a specific request for advice or support at enquiries@ukwa.org.uk

For any further information, visit www.gov.uk/get-ready-brexit-check or call the government's Brexit helpline on 0300 3301 331.