

# Brexit and Immigration



Follow the Employment team on LinkedIn



December 2019

## WHAT NOW FOR BREXIT AND IMMIGRATION?

After months of Brexit uncertainty, the election has now returned a conservative majority government. Boris Johnson has made it clear that he wants to "get Brexit done" and introduce an Australian style points-based system. We consider the immigration implications of the election result for employers and look at the steps UK based EU employees should be taking now to protect their status ahead of the current Brexit deadline of 31 January 2020.

### EU SETTLEMENT SCHEME

EU nationals and their family members living in the UK by the date of Brexit will be able to stay indefinitely provided they apply for status under the EU Settlement Scheme ("EUSS"). Over 2.5 million applications have now been made to the scheme since it opened in March 2019.

The status granted to EU nationals and their family members under the EUSS is dependent on the length of their residence in the UK. Settled status is granted to those who have lived in the UK for at least five years. EU nationals and their family members with less than five years UK residence are granted pre-settled status valid for five years. They must then apply for settled status once they qualify.

The deadline for EUSS applications under the revised Withdrawal Agreement is 30 June 2021. In the event the Withdrawal Agreement is not ratified, an earlier deadline of 31 December 2020 would apply. While there is still plenty of time to apply, many employers are encouraging staff to apply sooner rather than later.

### POST-BREXIT RECRUITMENT

Looking ahead to recruitment implications, if the UK leaves the EU without a ratified Withdrawal Agreement, the position is that EU nationals arriving in the UK after Brexit date will not be covered by the EUSS. They must instead apply by the end of 2020 for temporary status valid for a limited three-year period. They would then apply for status under the new post-Brexit immigration regime, expected to be rolled out from January 2021.

### NEW POINTS-BASED SYSTEM

The government is said to be planning an overhaul of the immigration system, with digital visas and a new Australian style points-based system to be introduced. EU and non-EU nationals are expected to be treated equally, with no preference given to EU nationals. For work visas, the new regime is expected to fall into three categories – an exceptional talent/contribution route (for investors, entrepreneurs, top scientists etc), a route for skilled workers (to cover employer sponsored visas), and a new sector- specific rules-based category (for temporary visas). Now that the election is out of the way and with the independent Migration Advisory Committee due to make its recommendations for the new system in January 2020, details should soon start to emerge on the new system to allow employers to plan effectively.