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Beyond Brexit: Supporting your employees and preparing for a new immigration regime

There were times when this didn't feel possible, but Brexit is finally happening. On 31 January 2020 at 23.00 GMT (midnight on 1 February in Europe) the UK will leave the European Union and European Economic Area, and related agreements with Switzerland will end.

If Brexit seemed like a slog, now we come to the hard part – a short reprieve during the transition period, and then a future without freedom of movement. Businesses need to do a lot to support existing employees and plan for a new UK immigration system in 2021. You'll also need to adapt your mobility and right to work policies, not least because UK nationals will likely need work permits in Europe from 2021 onwards. Business travellers and commuters will require special attention.

This note suggests key messages for your business, uses stated government policy to show how the new immigration system may work and then provides a plan, setting out how we can help you. We don't go as far as explicitly suggesting you will need extra headcount to help you get ready for Brexit, but there is a lot to do, and you may want to seriously consider it.

KEY MESSAGES



Brexit will happen on 31 January 2020, but there will be no practical changes to immigration between the UK and the EU until 1 January 2021.



European employees in the UK and UK employees residing in an EU country before 1 January 2021 will be able to stay but will need to make an application to register their status, as will their family members.



We are already providing UK employees with application support and guidance and will offer support to employees in Europe when application/registration guidance is published from February onwards.



On 1 January 2021, free movement rights will end for the UK nationals travelling to the EU and vice versa.



A new UK immigration system will be introduced in 2021. We can expect:

- ▶ Slower recruitment, substantial government fees and minimum salary requirements for skilled EU workers while lower skilled workers could be limited to one or two years' stay or prevented from entering for work altogether, depending on their age and nationality
- ▶ A faster and simpler system for non-EU workers, possibly with lower salary requirements although already high government fees will likely increase



From 1 January 2021, UK nationals will require work permission in Europe, except in Ireland. We can expect between one and six months, sometimes longer in specific circumstances, to land them.



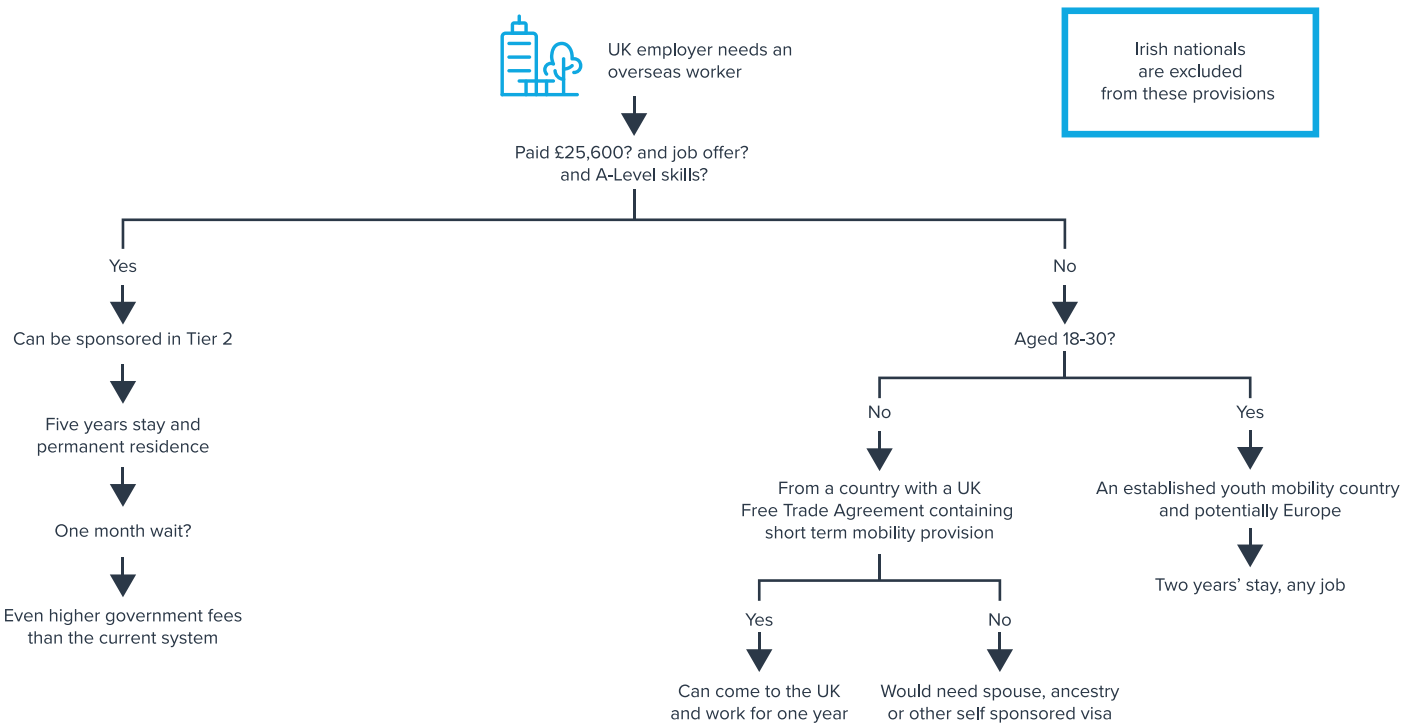
You can take measures to mitigate these challenges.

THE NEXT UK IMMIGRATION SYSTEM

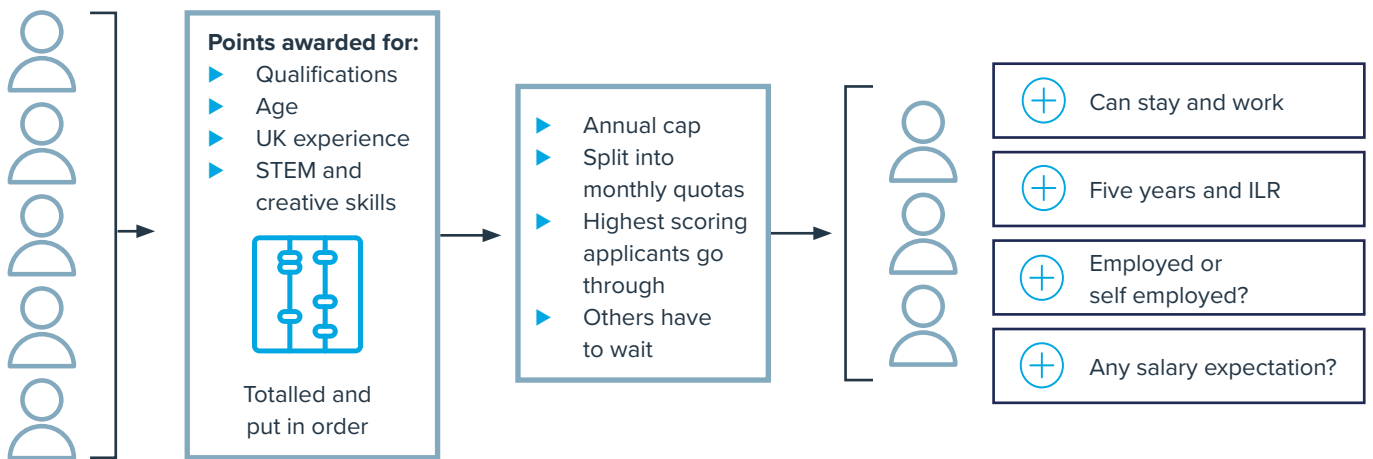
We aren't likely to get a full sense of the UK's next immigration system until March 2020 when the Home Office is expected to publish a White Paper statement of policy. It will then take effect on 1 January 2021, leaving very little time for employers to prepare.

For those of you who aren't able to wait until March, it is possible to make some sensible assumptions based on policies already in the public domain including the Migration Advisory Committee's January 2020 report on immigration. The MAC reaffirmed many aspects of the last government White Paper on immigration. They also recommended lowering the minimum salary threshold to £25,600 for Tier 2, or £17,900 for new entrants. They also set out how a new points based system could work. This is how it could look:

WORKERS WITH A JOB OFFER:










WORKERS WITHOUT A JOB OFFER



We can help you manage the Brexit transition. Here is how we will be helping our clients:

	Workers employed before 2021	Workers employed from 2021 onwards
Assumptions		
	 Impacted people: Europeans in the UK, UK nationals in Europe and their family members	 Free movement will end for the UK and European nationals on 31 December 2020
	 Residence will be protected if entered and registered before 2021	 A new UK immigration system will restrict Europeans' right to work in the UK while simplifying the system for non-Europeans
	 An application will be needed, with different process in each country	 In Europe, UK nationals will fall under the rules for non-EU citizens, such as US or Canadian nationals
Data requirements		
	 European employees in UK	 Current employment, employee and vacancy data for workforce planning, mapped against policy assumptions
	 UK employees in Europe	 Prospective employment and employee data for planned recruitment cycles, e.g. graduate programme, mapped against policy assumptions
	 Qualifying employees with family member status	 Recent immigration spend
	 Impacted employees on assignment	
Quarter 1, 2020		
	 Reassure, educate and direct employees	 Collect/ audit necessary data
	 Make useful resources available to employees	 Brief leadership on challenges and opportunities
	 Reaffirm right to work policies and update onboarding policies	 March 2020 – UK Immigration White Paper expected. Undertake workforce impact assessment: cost, constraints, risks and opportunities
	 Brief leadership on volumes, locations and plans to support	
	 From February, EU Member State application policies to be published. Direct, guide and support employee applications	
	 Develop tailored plans for commuters, business visitors and other cross border workers	
Quarter 2		
	 Reactive communications where necessary, directing employees to stock resources	 1 Detailed Immigration Rules published? 2 Refine impact assessment 3

	Workers employed before 2021	Workers employed from 2021 onwards
Quarter 3		
	 <p>Reactive communications where necessary, directing employees to stock resources</p>	 <p>Ahead of UK free movement rights ending, adjust mobility policies</p>
		 <p>Headcount planning: assess whether impacted moves due in 2021 can be brought forward</p>
		 <p>Ensure recruiters, line managers and other stakeholders are fully apprised of policy changes</p>
Quarter 4		
	 <p>Direct (remind) employees to make their application, explaining the consequences of missing deadlines</p>	 <p>New UK immigration licensing technology may be rolled out in advance of free movement ending. Take any necessary steps, apply for a new licence for instance.</p>
Quarters 1 and 2, 2021		
	 <p>Direct (remind) employees to make their application, explaining the consequences of missing deadlines</p>	<p>1 — New immigration system takes</p> <p>2 — effect: Plan for transition reporting, if</p> <p>3 — appropriate</p>

We hope this note is useful. Please contact your Fragomen account lead for more information or email us at brexit@fragomen.com