

Cos. Can Start Preparing Now For Immigration Beyond Brexit

By **Julia Onslow-Cole** and **Charlotte Wills**

The end of 2019 saw victory for the Conservative Party in the U.K. general election, with a retention of power for Boris Johnson but this time — with a large majority government behind him. The pace is now set to pick up as Johnson looks to pass his Withdrawal Bill through Parliament so that the U.K. can move forward toward a post Brexit future.

What does a new Conservative Party government mean for immigration and business? The key message is one of certainty on a path forward, with a wide expectation that the Withdrawal Bill will pass through Parliament. If this is achieved, the U.K. will leave the European Union on Jan. 31, 2020, with a transition period running until Dec. 31, 2020.

During this time, free movement remains in place, meaning the assurance of the right of entry, ability to work and unrestricted business travel for EU nationals coming to the U.K. remains in place — for now. EU nationals relocating to the U.K. before the end of 2020 can continue living and working in the U.K., needing to apply under the EU Settlement Scheme before the deadline of June 2021.

While the threat of a no-deal Brexit is seemingly now reduced, it does not remove the work that a business still has to do. There remain significant implications for immigration between the U.K. and Europe that will need focus, as well as commencing planning toward the new U.K. immigration system, expected early in 2021.

Before turning to U.K. immigration, the impact on European operations cannot be overlooked. Unless favourable terms are quickly negotiated, U.K. nationals will need to comply with country specific immigration rules in the EU from Jan. 1, 2021 — a little more than 12 months away.

The shift here will be both legal and cultural, as U.K. nationals accustomed to travelling throughout Europe for work and business will need to ensure compliance with the varying immigration schemes of the 27 countries that make up the EU plus Norway, Iceland and Lichtenstein.

Assessments and guidance for U.K. workers in the EU now would be prudent, allowing them plenty of time to comply with any local registration requirements. Combined with immigration, rules around posted worker and social security compliance are drawing more attention — a risk-based strategic approach is crucial to ensure consistency for operations throughout the next two years and beyond.

Looking closer to home at the impact on U.K. immigration, planning can certainly start now for the new U.K. immigration system. With a detailed outline of the new system still awaited, key aspects that should be on the radar for business are aplenty.

We expect a more streamlined, single system to incorporate both EU and non-EU nationals. This means EU and non-EU nationals entering the U.K. will be treated broadly equally and will require a work permit — resulting in increased costs and longer recruitment lead times.



Julia Onslow-Cole



Charlotte Wills

Increasing relocation costs to incorporate EU recruits will undoubtedly impact financial planning, with proactive analysis being especially key for businesses needing to fill project-based work streams in often very short timescales.

Lower skilled roles (those below A level) are likely to be hit hardest, as it remains unclear if overseas workers will be able to fill lower skilled jobs and those who can may be limited to a 12 of 24 month stay (depending on the success of negotiating trade details or if the applicant is from a youth mobility country such as Australia, Canada and potentially parts of the EU).

For those passing the first hurdle of the skills threshold, the minimum salary may remain at £30,000 for established workers and £20,800 for new graduates. This is under review by the Migration Advisory Committee, whose recommendations are eagerly expected in the New Year — talent management should still be prepared.

Taking steps now to analyze the impact of the above on U.K. operations can ensure a proactive approach in navigating the changes ahead. Assessing your workforce and recruitment planning is crucial to minimise disruption to operations and in developing contingency plans for growth and retention of key talent.

EU nationals present in the U.K. before free movement ends can apply under the Settlement Scheme, any moves planned for early 2021 should be moved forward to benefit from the current status quo. Meanwhile EU nationals in the U.K. now can be reassured, supported and encouraged in making applications through the EU Settlement Scheme.

Budget planning should include provision for the immigration costs of EU nationals, including a potential uplift of the immigration health surcharge from £400 to £625 per person, per year.

It remains to be seen what impact the much discussed Australian points-based system highlighted in the Conservative election campaigning will have on U.K. immigration. As we move into the new year, we await the Migration Advisory Committee report, which may seek to limit the impact to scientists and entrepreneurs primarily.

The above considerations leave much still to be drawn out, most of which could fall under the authority of Johnson's new immigration department — which would no longer form part of the Home Office.

The proposal for a new borders and immigration agency could bring with it a renewed public trust and confidence in the handling of U.K. immigration. If introduced too quickly however, it could mean upheaval and disruption for those who rely most heavily on its support.

Despite a possible escape from the cliff edge of a no-deal Brexit, there remains much work and forward planning to ensure business is prepared for a new immigration regime and all that lies ahead beyond Brexit.

Julia Onslow-Cole is a partner and Charlotte Wills is a senior manager at Fragomen, Del Rey, Bernsen & Loewy LLP.

The opinions expressed are those of the author and do not necessarily reflect the views of

Portfolio Media Inc. or any of its respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.