

need to know

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THE ASSOCIATION FOR UK INTERACTIVE ENTERTAINMENT

SHERIDANS

How to protect your EU workers from Brexit

This document has been prepared by Ukie Partner Member, Sheridans and only covers the basics of the employment of EEA nationals, further advice should be obtained before acting on the information provided. This note is intended to be used as a guide only and does not constitute legal advice.

Understandably, Brexit has led to anxiety for EEA nationals currently living and working in the UK. It is important not to panic and make assumptions as to the likely impact.

However, it is worthwhile encouraging your EEA workers to take stock and consider practical steps to help preserve their status.

In the short term, the law is likely to remain as it is for at least two years after the triggering of Article 50, which took place on the 29 March 2017. It is therefore likely that the status quo will continue until March 2019.

Whilst that provides some comfort, EEA nationals are well advised to consider taking the following practical steps to assist them post March 2019:

Those currently with at least five years' continuous working in the UK

- + EEA workers who have been working in the UK for five years will be able to apply for Permanent Residence (PR).
- + Once an individual has secured PR, they have permission to live and work in the UK on an on-going basis. It is strongly anticipated that this right of permanent residence will be respected by the UK government post Brexit. Certainly there seems to be little political desire to deprive

those with PR of the right to work and live in the UK post Brexit. Even should that political desire materialise there would be legal challenges to prevent any loss of the rights associated with PR.

- + In order to apply for PR they will need to demonstrate that they have been living and working in the UK continuously for 5 years. One useful tool in being able to demonstrate this is the submission of a travel schedule which sets out the reason and duration of any time spent outside of the UK.
- + However, if those with PR want to take it a stage further, and apply for British citizenship by naturalisation, they will need to hold PR for one year before applying to naturalise as a British citizen.

Those currently with 0-5 years' continuous working in the UK

- + For those who have less than five years working here, it's potentially more complicated.
- + The law hasn't changed (yet) so once people clock over the five-year mark, they should apply for PR as soon as possible.
- + Obviously for those who do not have PR it will be a question of what's agreed in the exit negotiations. However, the

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Government has already indicated that any transitional provisions put in place are likely to require an EEA national to have a formal UK document evidencing that they are a Qualified Person exercising their Treaty rights in the UK (in the form of a Registration Certificate).

- + Therefore, whilst it is not currently a requirement for an EEA worker to apply for a Registration Certificate in order to live and work in the UK, we recommend taking this step as it is very likely to assist in protecting their position post Brexit. By obtaining a Registration Certificate an EEA worker will be able to present a formal document, issued by the Home Office, proving that they were exercising their Treaty rights prior to the cut off date that will be introduced in the coming months. The indications are that EEA nationals will require this Registration Certificate in order to have the continuing right to live and work in the UK post Brexit.

What should I do next?

For further advice please contact **Daniela Cohen** of the **Employment & Business Immigration Group** at Sheridans (dcohen@sheridans.co.uk).

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