

Business Immigration



## EU Nationals Working in UK- to Brexit and beyond...

With Satinder Gill and Ian Wright

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## WHO ARE WE?


### Five Paper

Barristers at Five Paper offer clients and in-depth knowledge in several specialist practise areas.

Satinder Gill and Ian Wright head the Business Immigration and Regulatory Team which advises Business Leaders, HR Professionals and other lawyers on the movement of people into the UK for work related reasons.

Both Satinder Gill and Ian Wright are recognised in the Legal 500 for their business immigration and regulatory work.

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## CURRENT RIGHTS:

- Admission
- Residence
- Extended right of residence (as long as remain 'qualified')
- Permanent right of residence (5 years continuous residence)

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## CURRENT RIGHTS:

### Third Country Nationals

- Accompanying EU Nationals
- Family members
- Extended family members
- Derivative rights of carers
- Working for EU companies

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## STATUS OF EU CITIZENS IN THE UK

- Government Guidance- 29 March 2018
- 'Agreement with EU over citizens' rights to provide 'certainty'
- Allow citizens to remain in the UK after withdrawal (29.3.19) and continue to have access to public funds and services.

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## STATUS OF EU CITIZENS IN THE UK

- Persons who by 32.12.20 have been continuously and lawfully living in the UK for 5 years will be able to apply to stay indefinitely by getting 'settled status.' So will be free to live here, work here, have access to public funds and services and, if so wish, may apply for British citizenship.

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## STATUS OF EU CITIZENS IN THE UK



- Persons who by 31.12.20 have arrived but have not lived continuously and lawfully resided for 5 years may remain until they reach the 5 year threshold
- They will then be able to apply for settled status

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## STATUS OF EU FAMILY MEMBERS



- Family members who are living with or join EU nationals in the UK before 31.12.20 will also be able to apply for settled status in the UK after 5 years continuous residence.
- Close family members (spouses, civil partners, dependent children, grandparents/children) will be able to join EU nationals after exit where the relationship existed on 31.12.20.

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## STATUS OF EEA/SWISS/IRISH NATIONALS



- Agreement explains that UK is having discussions with non EU Members of the EEA (Norway, Iceland, Lichtenstein) and Switzerland to secure status of their citizens resident in the UK and vice versa.
- Irish Nationals in the UK (and vice versa) are rooted in the Ireland Act of 1949 and are not affected by the Agreement.

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## STATUS OF EU NATIONALS-FORMALITIES



- If arrived by 29.3.19 have lived in UK for 5 years apply for settled status.
- If arrived by 29.3.19 but have not lived in UK for 5 years apply for temporary residence permit if intend to stay more than 3 months.
- If arrive after 29.3.19 required to register and then apply for a temporary residence permit and in due course settled status.
- From 1.7.21 will be mandatory to hold a settled status or temporary residence permit.

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## STATUS OF EU NATIONALS-FORMALITIES 1/2



- 'Streamlined digital process for applying for settled status-low cost.
- EU Nationals entitled to permanently reside under existing arrangements will be able to swap 'permanent residence' for 'settled status.'
- User Group set up to ensure transparency and regularity.
- If can evidence residence but not 5 years' continuous residence then given temporary status until built up 5 years.

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## STATUS OF EU NATIONALS-FORMALITIES 2/2



- Evidential flexibility will apply.
- Verification will be digital as far as possible.
- Administrative review system established.
- Rights may be denied on ground of national security, public order.
- Online application form will launch late 2018 then open to 30.6.21.

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## EMPLOYERS- PRACTICAL PROBLEMS



- Discussions with individual employees.
- Should apply now for permanent residence or wait.
- Documents needed to apply for settled status.
- What family members might join the EU nationals in the UK
- Whether to apply for UK citizenship.
- Position of TCN Carers

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## EU NATIONALS- VULNERABLE GROUPS



- Children of non Irish EU Nationals who do not themselves apply (900,000) need to apply themselves.
- Children in care.
- Vulnerable Groups (victims of abuse, trafficking).
- Those who believe they are not eligible.

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## STATUS OF UK NATIONALS IN THE EU



- Government Guidance- 'UK Nationals in EU: essential information (23.3.18).
- Until leave EU- retain legal status as EU citizens.
- Travel freely.
- Live and work in EU.
- Receive healthcare.
- Receive pensions in EU countries.

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## STATUS OF TCN CARERS



- Primary carers cannot acquire permanent residence.
- Rights therefore dependent on Immigration Rules- could be withdrawn?
- Businesses may have to apply for and assign a Sponsor Licence if wish to retain.

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## STATUS OF UK NATIONALS IN EU



- Citizens' Rights Agreement- December 2017 and further agreement 19.3.18.
- Implementation period 30.3.19-31.12.20.
- All UK nationals legally residing in EU27 on 31.12.20 covered by CRA.
- May visit, live, work, move to another Member State as now.

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## STATUS OF UK NATIONALS IN EU 2/2



- Same access to healthcare and other services.
- May leave member state for up to 5 years without losing right to return.
- After 31.12.20 EU or State may require applications for residence or status doc.
- At least 6 months after end of the Implementation Period granted to make any such application.

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## STATEMENT OF INTENT



- UK Government to publish a statement of intent setting out the details of the settled status scheme for EU nationals and their family members who want to stay in the UK after Brexit.
- The statement is to list some of the evidence required to prove an entitlement to stay in the UK post Brexit.
- A consultation paper, due out tomorrow, 21 June 2018.

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## MIGRATION ADVISORY COMMITTEE



- MAC – an independent public body advising the Government on migration issues.
- MAC commissioned on July 2017 to report on the impact on UK's labour market of Brexit and how UK's immigration system should be aligned with a modern industrial strategy.
- MAC provided a briefing note in August 2017 and an interim update in March 2018.
- MAC's report is due in September 2018.

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## RECENT CHANGES TO THE UK IMMIGRATION RULES



- Most recent changes published on 15 June 2018, taking effect 6 July 2018.
- Removing Doctors and Nurses from the annual cap under Tier 2 (General) – the route for employers to sponsor skilled workers in the UK from outside the EEA and Switzerland.
- Proposal for a new start up visa route in Spring 2019 announced on 13 June 2018.

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## THANK YOU



### Any Thoughts or Questions?

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## GET IN TOUCH



<p><b>IAN WRIGHT</b> Five Paper Barrister E: <a href="mailto:ianwright@fivepaper.com">ianwright@fivepaper.com</a> T: +44 (0) 20 7815 3200</p>	<p><b>SATINDER GILL</b> Five Paper Barrister E: <a href="mailto:satindergill@fivepaper.com">satindergill@fivepaper.com</a> T: +44 (0) 20 7815 3200</p>
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