



EU Exit

EU Exit: The EU Settlement Scheme and preparing for the Post-Brexit Immigration Scheme

25 September 2020

In partnership with **A&L Goodbody**

What we will cover

Pre-Brexit
Rights for EEA
Nationals

Post-Brexit
Immigration
System



EU Settlement
Scheme

Employer
Guidance

Pre-Brexit Rights for EEA Nationals

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Current Rights

- ✿ EEA nationals and their family members are permitted to enter the UK for up to three months without restriction.
- ✿ You can remain provided you become a:
 - ✿ Worker
 - ✿ Self-employed person
 - ✿ Self-sufficient person
 - ✿ Student
- ✿ Permanent Residence can be acquired following 5 years of continuous residence.

EU Settlement Scheme - Background

- ✿ The settlement scheme is designed to offer EEA and Swiss citizens and their family members living in the UK the opportunity to protect their residence in the UK after the UK leaves the EU.
- ✿ The detail is set out in Appendix EU to the Immigration Rules
- ✿ The Scheme is currently open and EEA Nationals and their families can apply.



EU Settlement Scheme – Key Dates



31 December 2020

Deadline for EEA Nationals to enter the UK under transitional arrangements



January 2021

A new immigration scheme will take effect for all migrants, whether EEA or non-EEA.



30 June 2021

Deadline for all EU Settlement Scheme applications.

EU Settlement Scheme – Who is eligible?

- ✿ EEA Nationals (EU citizens, Iceland, Liechtenstein & Norway) and Swiss citizens
- ✿ Non-EEA Nationals who are:
 - ✿ in UK on the basis of EU law
 - ✿ resident in the UK by 31 December 2020
- ✿ "Close Family Members" of an EEA National (who have been residing in the UK by 31 December 2020) still outside the UK can apply up until 30 June 2020.
- ✿ Primary carers of British, EU, EEA or Swiss citizens
- ✿ Those who are not a "serious or persistent criminal; or a threat to national security"

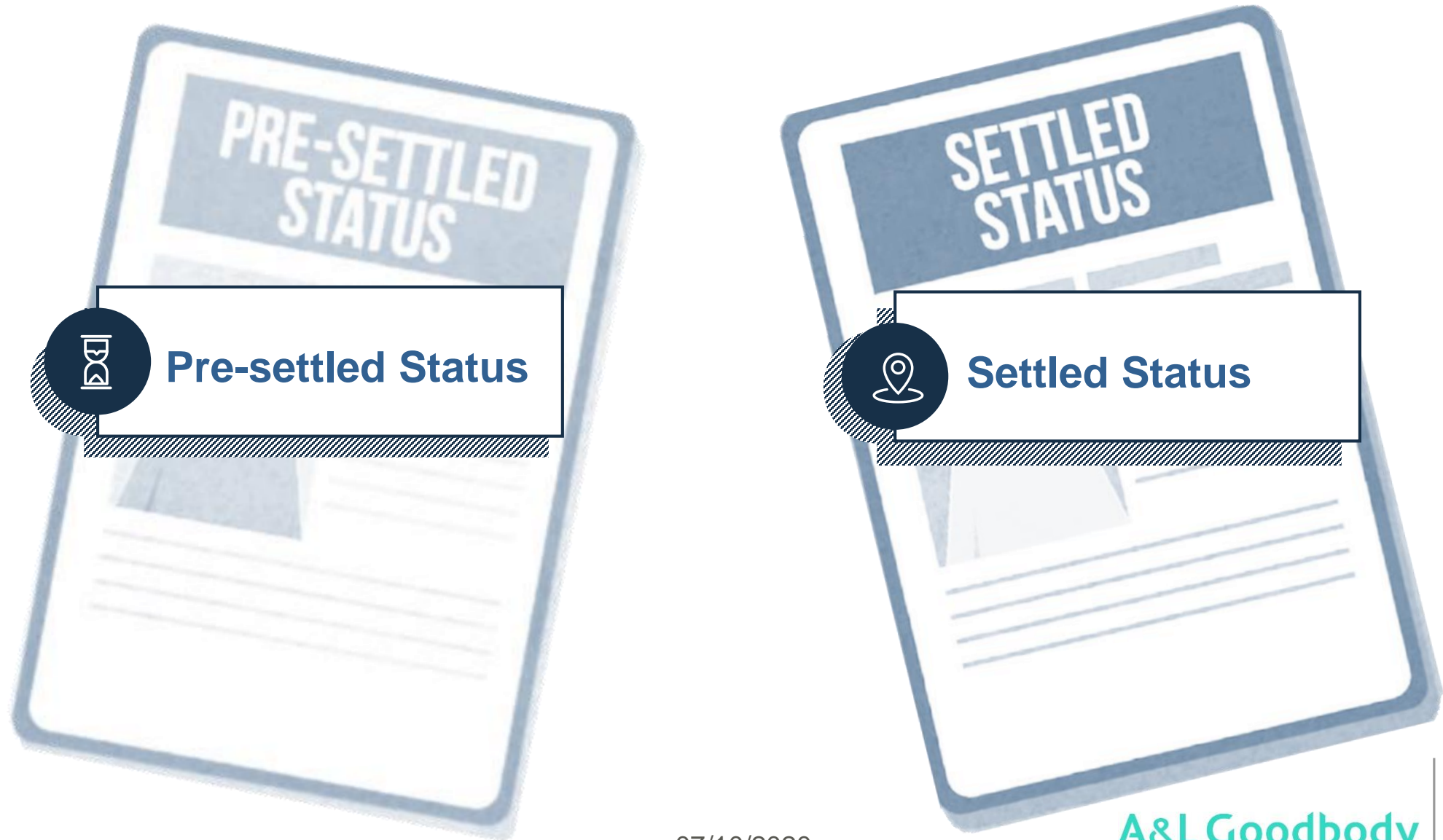


Non-EEA Family members of Northern Irish citizens

- ✿ New immigration rules allow for qualifying family members of “*relevant persons of Northern*” Ireland to apply for status under the EU Settlement Scheme
- ✿ *Relevant persons of Northern Ireland*: British citizens; Irish citizens or British-Irish dual citizens **born** in Northern Ireland will be treated as an EEA citizen for the purposes of the Scheme.
- ✿ Non-EU family members of relevant persons of Northern Ireland are required to apply to the EU Settlement Scheme if they have no other status in the UK.
- ✿ Must be in the UK by 31 December 2020.
- ✿ Evidence: born in Northern Ireland & at time of their birth have at least one parent who held British, Irish or dual citizenship.

De Souza (Good Friday Agreement: nationality) United States of America [2019] UKUT 355 (IAC)

EU Settlement Scheme – Status under the Scheme



Rights under the EU Settlement Scheme

Work in the UK



Use the NHS



Study in the UK



Travel in and out
of the UK

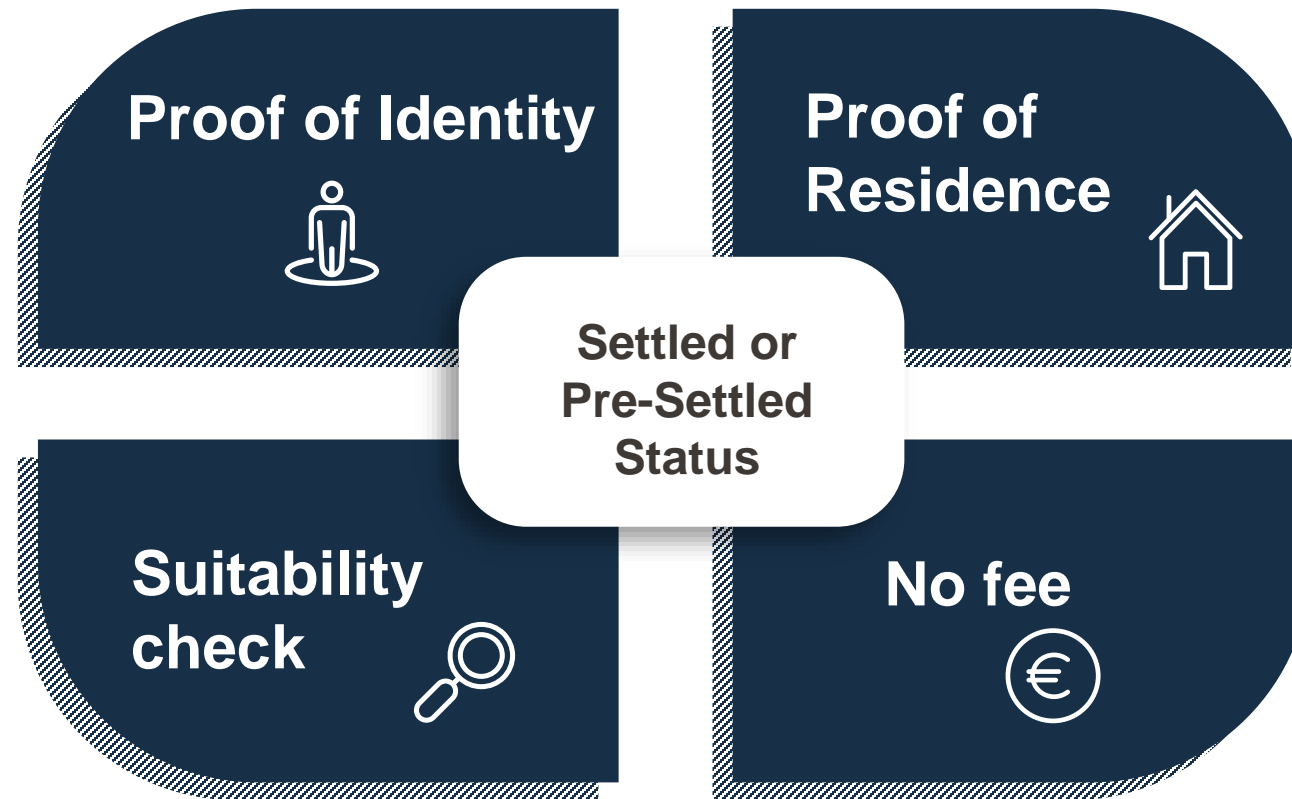


Access to
public funds



EU Settlement Scheme - Criteria

- ✿ EU Exit: ID Document Check App
- ✿ Short **online** application form



EU Settlement Scheme – Application Process

EU Exit: ID Document Check App



Scan your document

Normally the photo page of the passport.

Check your Document's information

The documents are scanned for information using NFC technology.

Scan your face using the phone's camera

Children under 10 years old will not be asked to scan their face.

Take a photo

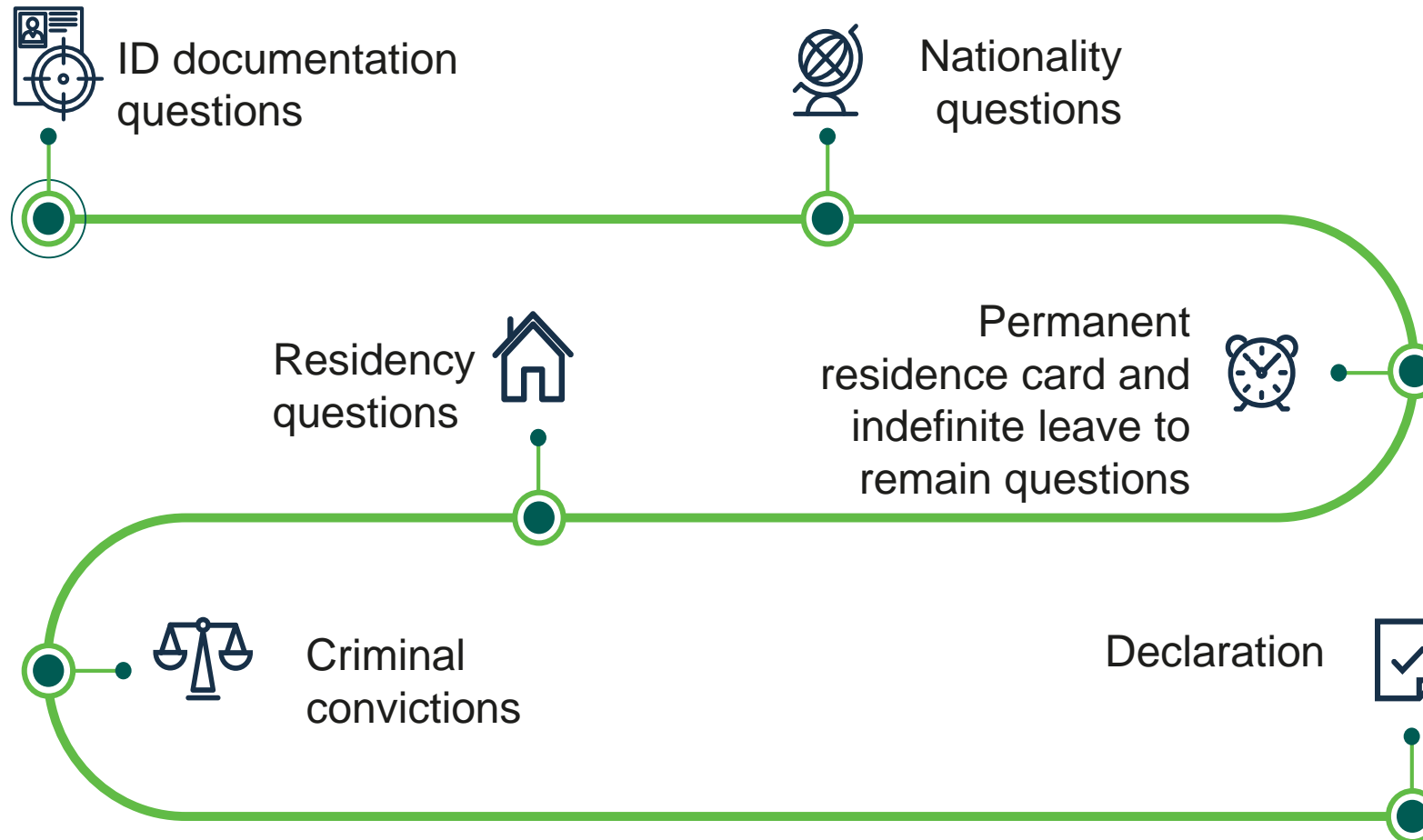
This should be well lit and have no one else in the photo.

Complete

Once finished on the app, applicant's will be directed to fill in the rest of the online application form.

EU Settlement Scheme – Application Process

Online Application



EU Settlement Scheme – Application Process

Supporting Documents

Preferred

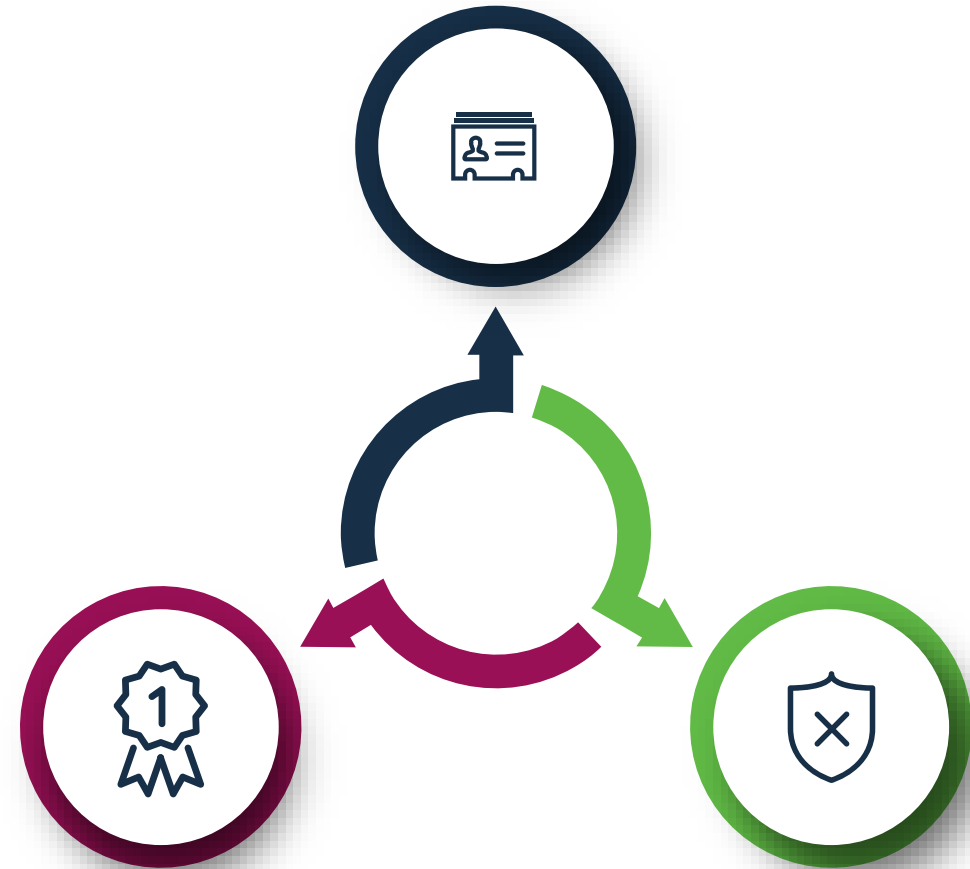
Examples include: annual bank statement, P60 for a 12 month period, Student finance documentation for UK, Residential mortgage statement, Council tax bill and evidence of pension contributions.

Alternate

Examples include: a payslip, domestic bill, mobile contract, a dated letter from a UK GP, a passport stamp confirming entry into the UK and a used travel ticket.

Unacceptable

Examples include: Character references or testimonials from family and friends, photographs, greetings cards or postcards and a personal scrapbook.



EU Settlement Scheme – Application Process

Outcome



Confirmation

Applicants will receive confirmation of their status via email.

Review

If unsuccessful the applicant may be able to apply for an administrative review of the decision.

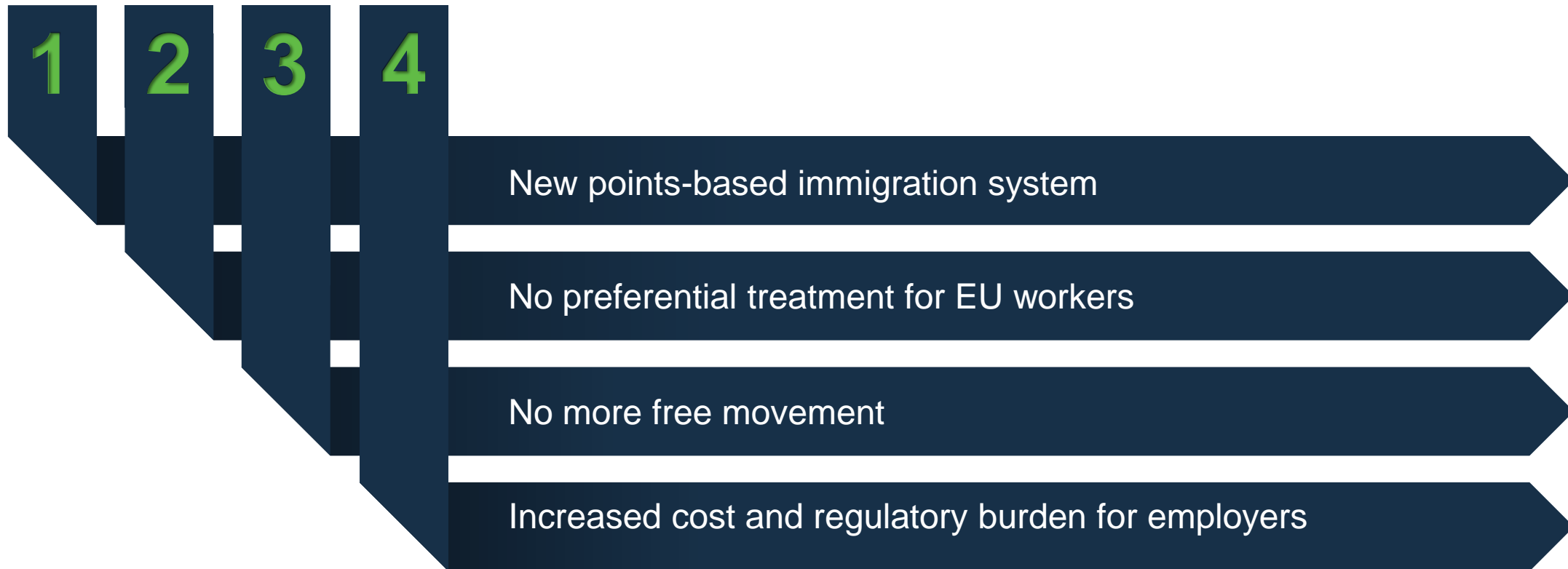
Apply again

Applicants can apply again at any time until 30 June 2021 (or 31 December 2020 in a no deal situation).

Post-Brexit Immigration System

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Post-Brexit Immigration



New Points-Based Immigration System – January 2021

The proposed new system includes:

- ✿ A new “Skilled Worker” category, open to all nationalities;
- ✿ Lowering of the skills threshold to include medium-skilled workers (A-Level or equivalent);
- ✿ No cap on number of migrants and the abolition of the Resident Labour Market Test;
- ✿ A new Health & Care visa
- ✿ A new Graduate visa launching in summer 2021
- ✿ Seasonal Workers?
- ✿ Sponsorship will remain the same initially but will be simplified over the next 5 years

The UK’s Points-Based Immigration System: Further Details Statement (13 July 2020)

Skilled Worker Visa

Criteria

Migrants applying for a visa under this new category will need to show that:

- ✿ They have a **job offer** from a Home Office licensed **Sponsor**
- ✿ The job offer is at the required **skill level** RQF 3 or above
- ✿ They have **English language** skills (intermediate).

Mandatory
(50 points)

- ✿ The job has a **minimum salary** of:

- ✿ £25,600 (or the going rate for the job, whichever is higher).
or
- ✿ £20,480 (or 80% of going rate) and they have a PhD; the job is in a shortage occupation or they are a new entrant to the labour market.

Tradeable
(20 points)

Cost considerations for employers

- ✿ Minimum salary thresholds will apply (generally £25,600 or the going rate)
- ✿ Employers will need to pay for a sponsorship licence and ensure compliance.
- ✿ A £199 sponsorship charge will apply to each migrant worker.
- ✿ Immigration skills charges will apply at a rate of £1,000 per year for each worker.
- ✿ An Immigration Health Surcharge will apply (£624 per worker, per year)
- ✿ With the addition of visa fees, the cost of recruitment from EU countries will increase significantly.
- ✿ The cost and burden of employing those from outside the EU will decrease.



Travelling to the EU

Travel to the EU (excluding Ireland), Switzerland, Norway, Iceland or Liechtenstein will change from 1 January 2021

Key points:

- ✿ Passport – must have at least 6 months left.
- ✿ Travel Insurance that covers healthcare
- ✿ Driving Documentation – green card, international driving permit.
- ✿ Tourism – no need for a visa (90 days in any 180 day period)
- ✿ Work, study & business travel – country specific rules will apply.
- ✿ Recognition of professional qualifications – may change. Contact national authorities.

Key Risks for Businesses

- ✿ EU citizens are **at risk** of failing to secure their right to work. Acting now will minimise the risks and assist employees.
- ✿ Employing illegal workers carries the risk of civil penalties (fines up to **£20,000** for each employee) and criminal charges as well as restrictions on ability to replace workers.
- ✿ It is crucial to **manage the uncertainty**.
- ✿ Key issues for businesses:
 - ✿ The need to prevent EU worker attrition to avoid loss of production
 - ✿ Planning for future recruitment to secure skilled workers .
 - ✿ Ensuring competitive advantage.

Key actions for businesses

- ✿ Audit present workforce to identify EEA nationals that will need to secure their right to work.
- ✿ Review recruitment practices and develop strategies now for retention of staff and future recruitment.
- ✿ Complete recruitment of EEA nationals before 31 December 2020;
- ✿ Budget for salary levels and the cost and lead time for visa application processes;
- ✿ Apply for a Sponsorship licence now. This will ensure you are prepared for all recruitment scenarios in January 2021; and
- ✿ Ensure right to work checks are up to date and policies are kept under review.

Key Actions for Businesses



Audit workforce

How many EEA nationals do you employ and in what roles? What is the present attrition level? Where do you source employees from?



Conduct an impact assessment

Consider different scenarios and the impact on your workforce and how this might affect overall business strategy.



Workforce planning options

Consider what interventions will be required to maintain competitiveness and cover any gaps in the workforce.



Monitor Developments

The situation is subject to change. Ensure interventions are adapted to reflect any change and keep under review.

What can employers do for their EU Workers

Information only

Sign-post & issue communications/posters outlining the impact of Brexit

Provision of guidance

Simplify application guidelines
Provide FAQs

Collective assistance

Facilitate training sessions on the rights of EEA nationals

Individual assistance

Direct assistance with applications for employees and their family members.



Questions?

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