STEP Guidance Note

End of the Brexit transition period: Areas for members to be aware of and prepared for after 1 January 2021

About Us

STEP is the worldwide professional association for those advising families across generations. We help people understand the issues families face in this area and promote best practice, professional integrity and education to our members.

Today we have over 22,000 members in over 100 countries and over 8,000 members in the UK. Our membership is drawn from a range of professions, including lawyers, accountants and other specialists. Our members help families plan for their futures: from drafting a will or advising family businesses, to helping international families and protecting vulnerable family members.

We take a leading role in explaining our members’ views and expertise to governments, tax authorities, regulators and the public. We work with governments and regulatory authorities to examine the likely impact of any proposed changes, providing technical advice and support and responding to consultations.

Purpose of this note

With the United Kingdom’s departure from the European Union (EU) and the end of the transition period due on the 31 December 2020, there is limited time for members to be aware of and implement required changes, which are expected from 01 January 2021.

The purpose of this note is to highlight the specific areas that STEP believes will most affect members, raise awareness of these issues and link to the relevant guidance documents to assist members.

It must be noted that, at the time of writing of this note, an agreement was reached on 24 December 2020 between the UK and EU. The UK’s EU (Future Relationship) Bill was debated and voted through parliament on 30 December 2020. This note will be constantly updated as the situation continues to evolve.

UK government transition campaign

The UK government’s campaign to raise awareness among businesses and individuals on the need to prepare for 01 January 2021 is entitled ‘The UK’s new start: let’s get going.’ It sets out the actions businesses and individuals need to take to prepare for the
end of the transition period on 31 December 2020, and to ensure they are ready to seize the opportunities that it will bring.

The main government transition page can be found here. Updated guidance and regulation can be found here.

The campaign is running with the key slogan:

- Check
- Change
- Go

**Government transition check questionnaire**

All members are urged to use the following transition check questionnaire, which asks a number of questions to determine based on the answers that areas members have to focus on while getting ready for new rules in 2021.

The questionnaire can be found here.

The questions are:

- What nationality are you?
- Where do you live?
- What do you do?
- Do you own or help to run a business or organisation?
- Where is your business or organisation registered?
- Do you employ anyone from another European country?
- Do you exchange personal data with another organisation in Europe? (This includes organisations located in the EU, Norway, Iceland and Liechtenstein.)
- Do you plan to apply for EU funding?
- Do you sell your products or services to the UK public sector?
- Do you use or rely on intellectual property (IP) protection?
- Does your business or organisation do any of the following?
  - Bring or receive goods from EU countries (importing)
  - Send or take goods to EU countries (exporting)
  - Transport goods across EU borders (haulage)
  - Provide services or do business in the EU
  - Move goods into, out of, or through Northern Ireland
  - Send or take goods to the rest of the world (exporting)
  - Trade with developing countries
- What does your business or organisation do?
Main areas of concern

The main areas of concern for members are:

- If you provide services in the EU, you must ensure that your qualifications are now recognised by EU regulations to be able to practice or service clients in the EU.
- If you travel to the EU for work purposes, you will need to check if you need a visa or work permit and apply if necessary.
- If you employ overseas nationals, you will need to prepare your business for the implementation of the new immigration system. From 1 January 2021, if you want to hire anyone from outside the UK, including from the EU, you must be a Home Office licenced sponsor.
- If you are a UK business or organisation that receives personal data from contacts in the EEA, you may need to take extra steps to ensure that the data can continue to flow legally at the end of the transition period.

Selling services to the EU, Iceland, Liechtenstein, Norway and Switzerland, from 1 January 2021

Overview

The UK will no longer operate under the European Economic Area (EEA) regulations for the cross-border trade in services from 1 January 2021.

This means that the rights and protections provided by the EU directives and EU treaty rights of freedom of movement and freedom of establishment will no longer apply to the UK.

UK businesses will no longer be treated as if they were local businesses. Services provided by UK businesses and professionals will be regarded as originating from a ‘third country’.

UK firms and service providers may face additional legal, regulatory and administrative barriers as a result.

Trade regulations

UK business’ or professional providing services in the EU, Iceland, Liechtenstein or Norway, will need to check the national regulations of the country they are doing business in to understand how best to operate.

See the selling services guides to each country for more information.
Find out more about paying VAT on sales of digital services.

Establishing and structuring your business

If a member has a UK business, they might face restrictions on their ability to own, manage or direct a company registered in an EEA country from 1 January 2021.

Members should be prepared for:

- additional requirements on the nationality or residency of senior managers or directors, and
- limits on the amount of equity that can be held by non-nationals.

UK companies and limited liability partnerships that have their central administration or principal place of business in certain EU Member States may no longer have their limited liability recognised.

Find out more about structuring your business from 1 January 2021.

Switzerland

The UK and Switzerland secured a far-reaching agreement on 4 December 2020 on services that maintains high quality access for UK service suppliers to the Swiss market.

The UK-Switzerland Services Mobility Agreement allows UK professionals and other service workers to continue travelling freely to Switzerland and work visa-free for up to 90 days a year.

This deal supports trade in vital industries of the UK economy, including finance, consultancy, legal services, the tech sector and the creative industries.

When travelling to Switzerland, UK professionals will be able to do business as they did prior to 31 December 2020 and will not face economic interest tests, work permits or lengthy processing times for the first 90 days.

The agreement builds on the existing UK-Switzerland trade deal and will enter into force from 1 January 2021.

The initial agreement will last for two years, to ensure continuity immediately after the transition period. It will help lay the groundwork for an enhanced UK-Switzerland trading relationship in the future.
The UK and Switzerland have also committed to work together on the mutual recognition of professional qualifications in each other’s country.

**Business travel and entry requirements**

Advice about travelling to specific countries, including travel entry requirements, can be found [here](#).

To find out more about going abroad for work, check the guidance for travellers visiting the EU.

**Recognition of professional qualifications**

Members will need to have their UK professional qualification officially recognised if they want to work in a profession that is regulated in the EEA. It will need to be recognised by the appropriate regulator for their profession in each country where they intend to work. This will need to be done even if they are providing temporary or occasional professional services.

**Professionals already working in an EEA country**

Members do not have to do anything if their qualification has already been officially recognised by the relevant regulator in an EEA country. The regulator’s decision to recognise the qualification will remain valid after the transition period.

**Start working in an EEA country**

Check the [European Commission’s Regulated Professions Database (REGPROF)](#) to find out if your profession is regulated. Then contact the point of contact for each EEA country, to find out how to get your professional qualification recognised.

**Data transfer and GDPR**

UK businesses may need to make changes if they operate across the EEA or exchange personal data with partners in the EEA.

Members do not need to take action to keep sending personal data from the UK to the EEA (or [the 13 countries deemed ‘adequate’ by the EU](#)) from 1 January 2021.

Members should read the available guidance and consider what additional General Data Protection Regulation (GDPR) safeguards must be put in place if they receive personal data transfers in the UK from an EEA country.
The government guidance on using personal data from 1 January 2021 to find out if you should take action can be found here.

The Information Commissioners Office (ICO) is the relevant regulatory body for data protection in the UK and all of its guidance and resources for organisations after the transition period ends can be found here.

All companies should review privacy information and internal documentation to identify any details that will need updating from 1 January 2021.

STEP’s has produced a data protection guidance note that takes account these legislative changes and summarises STEP’s understanding of how certain aspects of the UK GDPR should be applied in the context of private, non-charitable, trusts and estates. Whilst the guidance focuses on the UK GDPR, the similarities between the UK and EU regimes mean that it may also be of use when interpreting the EU GDPR.

Further STEP guidance and briefing notes on GDPR can be found here.

**Recruiting people from outside the UK from 1 January 2021**

From 1 January 2021, freedom of movement between the UK and EU will end and the UK will introduce a new immigration system that will treat all applicants equally, regardless of where they come from. If a company wants to recruit from outside the UK, excluding Irish citizens, they will need to apply for permission first.

The requirements are different for each visa and the full guidance can be found here.

The new system will not apply to EEA or Swiss citizens that are already employed in the UK. EEA and Swiss citizens living in the UK by 31 December 2020, and their family members, can apply to the EU Settlement Scheme. They have until 30 June 2021 to apply.

From 1 January 2021, companies will need to have a sponsor license to hire most workers from outside the UK.

**Skilled workers**

From 1 January 2021, anyone recruited from outside the UK for the skilled worker route will need to demonstrate that:

- they have a job offer from a Home Office licensed sponsor,
- they speak English at the required level,
• the job offer is at the required skill level of RQF3 or above (equivalent to A level), and
• they will be paid at least GBP 25,600 or the ‘going rate’ for the job offer, whichever is higher.

Further information on which occupations are at the required skill level and the salaries for these occupations can be found in Annex E of the UK points-based immigration system: further details statement.

Intra-company transfers

If a company wants to transfer a worker from a part of their business overseas to work for them in the UK, they can apply for the Intra-company Transfer visa. Applicants will need to be existing workers who will undertake roles that meet the skills and salary thresholds.

From 1 January 2021, workers transferring to the UK will need to:

• be sponsored as an Intra-company Transfer by a Home Office licensed sponsor,
• Have 12 months’ experience working for a business overseas linked by ownership to the UK business they will work for,
• be undertaking a role at the required skill level of RQF6 or above (graduate level equivalent), and
• be paid at least GBP 41,500 or the ‘going rate’ for the job, whichever is higher.

Permission for workers transferred to the UK on the Intra-company Transfer route is temporary. Workers can be assigned to the UK multiple times, but they cannot stay in the UK for more than five years in any six-year period.

Workers paid over GBP 73,900 do not need to have worked overseas for 12 months and can stay for up to nine years in any ten-year period.

Workers who are transferred to the UK as part of a structured graduate training programme for up to one year can apply for the Intra-company Graduate Trainee route. The requirements are the same except there are different rules on length of overseas experience and salary.

Apply for a sponsor license

If a member thinks that they will want to sponsor migrants from 1 January 2021, they should apply for a sponsor license now. This can be done here.
VAT issues after 1 January 2021

At the end of the transition period, the UK left the VAT area. However, under the terms of the EU-UK Withdrawal Agreement, Northern Ireland will remain fully aligned with the EU’s VAT rules on goods. The UK government will be responsible for implementing these rules in Northern Ireland and the UK will retain any revenue raised, rather than passing it on to the EU as now.

The following UK government guidance on VAT can be found here.

VAT rates

There are currently three different rates of VAT and members must make sure they charge the right amount.

Get a list of reduced or zero-rated goods and services.

Standard rate

Most goods and services are standard rate. This should be the charge rate unless the goods or services are classed as reduced or zero-rated.

This includes most services supplied to an EU non-business customer. However, there are different rules for business customers, which can be seen here.

Providing services to EU businesses

If a member supplies services to a business customer in the EU, they do not need to charge VAT: the customer is responsible for paying VAT in their country.

There are different rules for some services, such as:

- hiring transport,
- land or property services (for example, valuing property, agricultural work or repairing a building),
- events,
- services where you act as an intermediary such as being a broker or agent, and
- digital services.

Anti-money laundering
Solicitors should now be aware of the following points which have all been derived from the England and Wales Law Society’s End of transition period guidance: anti-money laundering.

**Third-country entities**
Under the *Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulations 2019* (the Regulation), the definition of a ‘third country’ becomes a country outside the UK, as opposed to outside the EEA.

EU nationals/clients will consequently become third-country entities for the purposes of anti-money laundering (AML) compliance.

Transactions and business relationships involving EU nationals/clients should be subject to third-country considerations and criteria. For example, an EU customer seeking residence rights or citizenship in exchange for transfers of capital, purchase of a property, governments bonds or investment in corporate entities, is a ‘customer risk factor’ to be considered in respect of compliance with regulation 33 (obligations to apply enhanced due diligence).

**Changes to the AML framework**

There is not expected to be any immediate change to the AML framework for the UK.

The UK transposed the EU Fifth Anti-Money Laundering Directive into UK law and the government has not announced to date any proposal to deviate from those standards/requirements as of 1 January 2021.

Further, while the UK has opted out of transposing the Sixth Anti-Money Laundering Directive, due by 13 December 2020, this is primarily due to the fact that many of its requirements are already covered by existing UK law.

**Financial Action Taskforce**

The UK will continue to be a member of the Financial Action Taskforce (FATF) and is expected to continue to follow, if not exceed, its guidelines and recommendations on global standards. The UK became a member of the FATF in 1990.

**Non-regression clauses**

In the event that there is a future relationship agreement between the EU and UK, it is possible that it will include non-regression clauses in relation to AML standards.
The draft EU legal text contained proposals that would affirm the need for regulated entities and trusts to provide information on beneficial ownership, to be publicly available on central registers.

The proposals would also affirm the obligation on entities to take a risk-based approach to customer due-diligence, both for new customers and for reviewing existing relationships.

In practice, both of these points reflect the existing UK approach.

**Criminal judicial co-operation**

Criminal law practitioners should also be aware that AML is specifically listed as one of the offences to be covered by criminal judicial cooperation provisions in both the UK and EU draft legal texts for the future relationship.

In the event of an FTA being concluded, it is consequently likely that such provisions would be incorporated.

**Cross-border civil and commercial legal cases**

The following guidance only relates to cases involving the courts of England and Wales. If you have a cross-border case relating to the courts in Scotland or Northern Ireland, you should seek advice on mygov.scot or nidirect.gov.uk.

The EU Commission has published guidance on cross-border civil and commercial legal cases.

**Jurisdiction and recognition and enforcement of judgments in England and Wales**

The Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (SI 2019/479), which came into force at the end of the transition period (23:00 GMT on 31 December 2020), set out a number of amendments to legislation in the field of civil judicial cooperation in civil and commercial matters, including rules of jurisdiction and recognition and enforcement of judgments. The Regulations have been amended by two further instruments (SI 2020/1493 and SI 2020/1574) in order to align the existing savings provisions with the requirements of Title VI of the Withdrawal Agreement. The amended 2019 Regulations also include savings provisions that have the effect of preserving the 2007 Lugano Convention (and the 1968 Brussels Convention) for cases that were ongoing at the end of the transition period.
The **2005 Hague Convention on Choice of Court Agreements** still applies to the UK (without interruption) from its original entry into force date of 1 October 2015. It was given the force of law in domestic law on 1 January 2021 by the *Private International Law (Implementation of Agreements) Act 2020*, which also amended the *Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) (EU Exit) Regulations 2018* (SI 2018/1124).

The treatment of transitional cases (where proceedings commenced before the end of the transition period) is governed by:

- for cases under the **Brussels 1a Regulation** and its predecessors and the EU-Denmark Agreement, articles 67 and 69 of the Withdrawal Agreement;
- for cases under the **Lugano Convention**, regulation 92 of the *Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019*.

Both article 67 and 69, and regulation 92 provide that courts in England and Wales will continue to apply the relevant EU rules on jurisdiction and recognition and enforcement of judgments which applied immediately before the end of the transition period (e.g. as appropriate, those of Brussels Ia and the Lugano Convention) to cases where the proceedings were commenced before the end of the transition period. Article 67 and 69, and regulation 92 also provide that courts in England and Wales will continue to apply the EU rules on recognition and enforcement which applied immediately before the end of the transition period (e.g. those of Brussels Ia and Lugano respectively) where the parties have concluded a court settlement, or formally drawn up or registered an ‘authentic instrument’, before the end of the transition period, and recognition and enforcement is sought after that date in England or Wales.

Both article 67 and regulation 92 include judgments delivered, whether before or after the end of the transition period, by a court in the UK or an EU Member State in proceedings commenced before the end of the transition period, but which have not been enforced in an EU Member State or the United Kingdom respectively before the end of the transition period. Exclusive choice of court agreements entered into from 1 October 2015 that choose a UK court or the court of an EU Member State for the resolution of disputes, will continue to be subject to the terms of the 2005 Hague Convention on Choice of Court Agreements.

**New cases in England and Wales**

The rules governing jurisdiction in all cross-border disputes, including those involving parties domiciled in the EU (or in other states party to the Lugano Convention), are derived from the domestic law of each UK jurisdiction. In England and Wales, that comprises the common law, together with various statutory provisions including, in particular, Part 6 of the *Civil Procedure Rules 1998* (notably Practice Direction 6B). For
consumer and employment claims some specific provision on jurisdiction is made in sections 15B to 15E of the Civil Jurisdiction and Judgments Act 1982.

For claims initiated after the end of the transition period, involving an exclusive choice of court agreement entered into from 1 October 2015, in which the chosen court is established in a contracting party to that convention (which includes all EU Member States), the rules of the Hague Convention 2005 on Choice of Court Agreements apply. The rules governing recognition and enforcement of foreign judgments in cross-border disputes are generally contained in the common law, unless there is a bilateral agreement in force with the relevant country on reciprocal recognition and enforcement of judgments. In the case of judgments arising from exclusive choice of court agreements within scope of the 2005 Hague Convention, the Hague Convention rules apply.

Jurisdiction and recognition and enforcement of judgments in an EU Member State

The treatment of transitional cases by EU Member State courts is governed by Title VI, Part 3 of the Withdrawal Agreement.

The EU Commission has published guidance on cross-border civil and commercial legal cases, including on the approach that EU Member States will take regarding exclusive choice of court agreements choosing UK courts concluded since 1 October 2015.

Potential accession to the Lugano Convention

On 8 April 2020, the government applied for the UK to rejoin the Lugano Convention as an independent contracting state. It is now waiting for the other contracting parties to decide whether to agree to the UK joining the Lugano Convention. This guidance will be updated if the UK is able to rejoin the Lugano Convention with details of what this will mean for jurisdiction and the recognition and enforcement of judgments in cases to which the Lugano Convention applies, and confirmation of the date from which this will be effective.

Applicable law for cases in England and Wales

The EU rules governing applicable law in civil and commercial cases in the UK and EU Member States before the end of the transition period can be found in the following EU instruments and agreements:

- for contractual obligations, Regulation (EC) No 593/2009 (the Rome I Regulation) applies to contracts entered into from 17 December 2009; the 1980
Rome Convention on the law applicable to contractual obligations applies to contracts entered into between 1 April 1991 and 16 December 2009;

- for non-contractual obligations, Regulation (EC) No 864/2007 (the Rome II Regulation) applies to events giving rise to damage which occurs after 11 January 2009.

Legislation dealing with the ‘Rome’ rules on applicable law is contained in the following statutory instrument: The Law Applicable to Contractual Obligations and Non-Contractual Obligations (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/834). This instrument amended the Rome I and Rome II Regulations as retained by the EU Withdrawal Act 2018 so that they operate effectively as domestic law and made amendments to other related legislation.

This statutory instrument also preserves and amends the Rome Convention Rules, which are set out in the Contracts (Applicable Law) Act 1990, so that they still apply to contracts entered into between 1 April 1991 and 16 December 2009. This SI has been amended by The Jurisdiction, Judgments and Applicable Law (Amendment) (EU Exit) Regulations 2020 (SI 2020/1574) to ensure in particular that its provisions are consistent with Title VI of the Withdrawal Agreement.

Applicable law for cases in an EU Member State

Article 66 of the Withdrawal Agreement provides that, in EU Member States (in cases involving the UK):

- the Rome 1 Regulation continues to apply in respect of contracts concluded from 17 December 2009 (including after the end of the transition period); and
- the Rome 2 Regulation applies in respect of events giving rise to damage, where such events occurred on or after 11 January 2009 (including after the end of the transition period).

Practitioners should note, however, that both the Rome I and Rome II Regulations apply whether or not the applicable law is the law of an EU Member State (see Article 2 of Rome I and Article 3 of Rome II).

Family law disputes involving the EU

The following guidance only relates to cases involving the courts of England and Wales. If you have a cross-border case relating to the courts in Scotland or Northern Ireland, you should seek advice on mygov.scot or nidirect.gov.uk.

The EU Commission has also published guidance on family law disputes.
Divorce

The treatment of cases commenced before the end of the transition period (11pm on 31 December 2020) is governed by Title VI of Part 3 of the Withdrawal Agreement.

Transitional cases

Under the terms of the Withdrawal Agreement, divorce proceedings ongoing in England and Wales at the end of the transition period will continue under the current law and rules of Council Regulation (EC) 2201/2003 (Brussels IIa) to determine jurisdiction.

The jurisdiction rules set out in article 3 of Brussels IIa have been applied to all cases of opposite sex divorce, legal separation and annulment (divorce etc.) in England and Wales, whether or not the case has a cross-border element.

The jurisdiction rules can mean that parties to a marriage may have standing to seise the court in a number of different Member States. Parallel proceedings are avoided by the lis pendens rule in article 19, requiring the court second seised to stay the proceedings before it.

For same-sex divorce and civil partnership dissolution, legislation in the UK provides jurisdiction rules which broadly replicate the rules in Brussels IIa.

Courts in England and Wales will continue to recognise divorces granted in EU Member States in the same way under Brussels IIa, if the divorce was granted before the end of the transition period or if the divorce proceedings were started before the end of the transition period (even if the divorce is only ordered after the end of the transition period). Judgments on divorce have generally been recognised in other member states without any special procedure, under article 21, subject to the exceptions contained in article 22. A party seeking or contesting recognition of orders for divorce etc. made in England and Wales is required to produce the documents detailed in article 37 and, in particular, the article 39 certificate at Annex I to Brussels IIa.

An interested party (in England and Wales or in an EU Member State) can apply for a court order that a judgment on divorce should not be recognised.

The treatment of cases commenced before the end of the transition period in EU Member States is governed by Title VI of Part 3 of the Withdrawal Agreement.

New cases
Brussels IIa has been revoked. For cases starting after the end of the transition period, new jurisdictional rules for the court in England and Wales, which are based on the applicable Brussels IIa rules, have been inserted into section 5(2) of the Domicile and Matrimonial Proceedings Act 1973, by the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019. Sole domicile as a ground of divorce etc. jurisdiction has been added. The court in England and Wales has discretion to stay proceedings when there are proceedings continuing in another jurisdiction.

For same-sex divorce and civil partnership dissolution, legislation in the UK provides jurisdiction rules in the EU Exit Regulations which correspond to those for opposite-sex divorce.

For further information, refer to the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 and the related explanatory memorandum.

The court in England and Wales recognises divorces granted in EU Member States in which proceedings started after the end of the transition period in the same way as they currently do for orders from non-EU countries. The rules on recognition are to be found in the Family Law Act 1986 which implemented the 1970 Hague Convention on the recognition of divorce and legal separations.

(The 12 EU Member States that are currently party to the 1970 Hague Convention on Divorce Recognition are Cyprus, Czech Republic, Denmark, Estonia, Finland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovakia and Sweden.)

Maintenance

Transitional cases

The treatment of maintenance cases commenced under Council Regulation (EC) 4/2009 (the Maintenance Regulation) before the end of the transition period is governed by Title VI of Part 3 of the Withdrawal Agreement.

The jurisdiction provisions of the Maintenance Regulation will continue to apply to proceedings instituted before the end of the transition period.

For recognition and enforcement of decisions, Title VI of Part 3 of the Withdrawal Agreement states that a maintenance decision made in England and Wales that is to be recognised and enforced in another EU Member State must be recognised and must have a declaration of enforceability (registration for enforcement) before it can be enforced there. It should be accompanied by the documents required under article 28, subject to the exceptions in article 29.
A maintenance decision made in another EU Member State (except Denmark) that is to be recognised and enforced in England and Wales does not need to be registered for enforcement. It should be accompanied by the documents required under article 20.

For further information, refer to the *Family Procedure Rules 2010*.

The treatment of cases commenced before the end of the transition period in EU member states is governed by Title VI of Part 3 of the Withdrawal Agreement.

**New cases**

The Maintenance Regulation has been revoked. For cases starting after the end of the transition period, the court in England and Wales decides if it has jurisdiction using the relevant non-EU rules (unless parties have, before the end of the transition period, made a choice-of-law agreement in accordance with the EU rules). These rules are different depending on the type of maintenance case before the court.

The court in England and Wales continues to recognise choice of court agreements in maintenance cases agreed before the end of the transition period in writing between all parties which satisfy the relevant conditions, even if the case is issued after the end of the transition period.

The UK uses the rules of the *2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* with other States Party, which include all EU Member States except Denmark. The 1973 Hague Maintenance Enforcement Convention will continue to operate between the UK and Denmark.

**Specific guidance for lawyers from 1 January 2021 to allow them to continue to practise**

Article 66 of the Withdrawal Agreement provides that, in EU Member States (in cases involving the UK):

- the Rome 1 Regulation continues to apply in respect of contracts concluded from 17 December 2009 (including after the end of the transition period); and
- the Rome 2 Regulation applies in respect of events giving rise to damage, where such events occurred on or after 11 January 2009 (including after the end of the transition period).

Practitioners should note, however, that both the Rome I and Rome II Regulations apply whether or not the applicable law is the law of an EU Member State (see Article 2 of Rome I and Article 3 of Rome II).

**UK lawyers practicing in EU, EEA-EFTA and Switzerland**
If you are a UK lawyer working in the EU, Norway, Iceland, Liechtenstein or Switzerland you need to take the following action (which can be found in this guidance) to make sure you can continue to practise from 1 January 2021.

**UK lawyers with UK qualifications or professional titles**

UK lawyers working in the EU and in Iceland, Liechtenstein or Norway under their UK qualifications and professional titles will only be able to practise in accordance with the particular rules in each Member State.

UK lawyers working in the EU, Iceland, Liechtenstein or Norway should contact the relevant regulator in the country they are working in for advice. The Law Society of England and Wales has published guidance on practicing rights for UK solicitors in EU and EFTA states. UK regulators will also be able to offer advice.

UK lawyers who are registered European Lawyers should contact the relevant regulator in the country they are working in for advice and read further information on individual Member States.

**UK lawyers in EU countries with an EU qualification and professional title**

UK lawyers resident in an EU Member State and who are within scope of the UK-EU Withdrawal Agreement, who have joined the host state profession and who meet the regulatory requirements in the host state do not need to take any action to continue to practise in the state where they live.

UK lawyers who have applied to join the host state profession by 31 December 2020 and are appropriately registered with the local regulatory body, depending on when the application was made, may need to contact their local regulator to ensure their practising rights will continue whilst their application is being considered.

UK lawyers working in the EU should contact the relevant regulator in the country they are working in for specific advice.

**UK lawyers in Iceland, Liechtenstein and Norway with an EU/EEA EFTA qualification and professional title**

UK lawyers resident in Iceland, Liechtenstein and Norway, who have joined the host state profession and are appropriately registered with the local regulatory body, do not need to take any action to continue to practise in the state in which they live.

UK lawyers who have applied to join the host state profession before 31 December 2020 and are appropriately registered with the local regulatory body, depending on
when the application was made, may need to contact their local regulator to ensure their practising rights will continue whilst their application is being considered.

UK lawyers practicing in Iceland, Liechtenstein or Norway using an EU qualification and professional title should contact the relevant regulator in the country they are working in for advice.

**UK lawyers with UK qualifications in Switzerland**

UK lawyers within scope of the UK-Swiss Citizens Rights Agreement who are registered and working in Switzerland before 31 December 2020 on a permanent basis under their UK professional title do not need to take any action to continue to practice, as long as they remain registered in Switzerland.

UK lawyers or those in the process of qualifying as a UK lawyer as at 31 December 2020, and who are within scope of the UK-Swiss Citizens Rights Agreement, may start their application to register to work in Switzerland under their UK professional title on a permanent basis or to transfer to the Swiss professional title by 31 December 2024. They can continue to provide temporary services for up to 90 days per year for 5 years, where the provision of such services is under a contract agreed and started before 31 December 2020. This will be subject to the terms of your original contract.

UK lawyers not within scope of the UK-Swiss Citizens’ Rights Agreement should speak to the relevant local regulator for specific advice.

**UK lawyers with Swiss qualifications**

UK lawyers who have transferred to the Swiss professional title before 31 December 2020 and who are within scope of the UK-Swiss Citizens’ Rights Agreement do not need to take any action to continue to practise in Switzerland.

**Guidance for EU, EEA-EFTA and Swiss lawyers practicing in the UK**

If you are an EU lawyer working in the UK you need to make sure you can continue to practice from January 2021 (more information can be found [here](#)).

If you are practicing in Scotland, you should contact relevant Scottish regulators.

**Lawyers with English, Northern Irish or Welsh qualifications and professional titles**

Lawyers from the EU, Norway, Iceland, Liechtenstein and Switzerland using English, Welsh or Northern Irish qualifications can continue to practise. This applies to those who have been admitted to the UK profession through:
• a transfer test
• The ‘three years’ experience’ route under the Lawyers Establishment Directive.

If you are practicing in England, Northern Ireland or Wales, with English, Northern Irish or Welsh qualifications you do not need to take any action.

**Lawyers with EU, Iceland, Norway or Liechtenstein qualifications and professional titles**

Lawyers with qualifications and professional titles from the EU, Norway, Iceland or Liechtenstein need to take one of the following actions to continue to practise in England, Wales or Northern Ireland. The appropriate action will depend on the legal services you practise and business model:

• Requalify as an English, Welsh or Northern Irish lawyer with the relevant regulator under routes for foreign lawyers, if you want to provide reserved legal activities in England and Wales or services reserved to solicitors under the Solicitors (Northern Ireland) Order 1976
• Register as a [Registered Foreign Lawyer in England and Wales](#) with the relevant regulator, if you do not want to provide reserved legal activities, but would like to be involved in the management or ownership of a law firm with English and Welsh solicitors.
• Work under the supervision of an English, Northern Irish lawyer or Welsh.
• Undertake only unreserved legal activities. You may still need to register with another type of regulator depending upon the activities you choose to undertake, for example, the OISC for immigration advice or the FCA for claims management activities.

If you do not do this, it may affect whether you are able to practice in England, Northern Ireland or Wales.

**Registered European Lawyers (RELs)**

Registered European Lawyer (REL) status in the UK ceased for EU and EEA EFTA lawyers on 31 December 2020.

If you are a lawyer from the EU, Norway, Iceland or Liechtenstein, working in England and Wales, or Northern Ireland, you should [contact your regulator](#) with whom you were currently registered as a REL for specific advice.

If you are a lawyer from the EU, Norway, Iceland or Liechtenstein working in Scotland you should contact the relevant Scottish regulators for specific advice.
Switzerland

Swiss lawyers within scope of the UK-Swiss Citizens’ Rights Agreement who have registered in the UK as a REL or transferred to a UK professional title do not need to take any action to continue to practise.

Swiss lawyers using a Swiss qualification or title, or those in the process of qualifying as a Swiss lawyer at 31 December 2020, and who are within scope of the UK-Swiss Citizens Rights Agreement will need to start their application to register as a REL in the UK or to transfer to a UK profession by 31 December 2024.

Swiss lawyers using a Swiss qualification or title who are not in scope of CRA should contact the relevant regulator.

Read more information on the [UK-Switzerland Separation Agreement](#).

If you are a Swiss lawyer practising in Scotland, you should contact the relevant Scottish regulator for specific advice.

Recognition of qualifications

After 31 December 2020, there will be a new system in place for recognising professional qualifications. Further details of this system will be shared, once known.

**Guidance for Legal services business owners from 1 January 2021**

Guidance for legal services business owners on preparing for changes that will apply from 1 January 2021 can be found [here](#).

**UK qualified lawyers with businesses in the EU, EEA-EFTA and Switzerland**

If you are a UK lawyer with ownership interests in the EU, Norway, Iceland, Liechtenstein or Switzerland you need to contact the local regulator for specific advice.

**EU and EFTA qualified lawyers with businesses in England, Wales or Northern Ireland**

If you are a lawyer with qualifications from the EU, Norway, Iceland or Liechtenstein (EEA-EFTA), you need to have taken one or more of the following actions before 31 December 2020 to continue to manage, own, or part own, a legal services business in England, Wales or Northern Ireland:

- Requalify in England, Wales or Northern Ireland with the relevant regulator under routes for foreign lawyers
- Become a Registered Foreign Lawyer in England and Wales with the relevant regulator
- Make the necessary changes to your practice or business structure to comply with the new regulatory arrangements.

If you have not done this, it may affect whether you can own or part-own a legal services business in England, Wales or Northern Ireland and you should contact the relevant regulator for further advice.

If you were previously a Registered European Lawyer (REL), and you own an unregulated legal services business in the UK, you should contact the relevant regulator for specific advice.

For those within scope of the UK-Swiss Citizens’ Right Agreement you have until 31 December 2024 to register as a REL or requalify as a solicitor or barrister in England, Wales or Northern Ireland.

**Employing lawyers from the EU, EEA and Switzerland**

There will be no change to the way EU, EEA and Swiss citizens prove their right to work until 30 June 2021. Irish citizens will continue to have the right to work in the UK and prove their right to work as they do now, for example by using their passport.

You can find more information in the guidance on employing EU, EEA and Swiss citizens.

Businesses in England, Wales or Northern Ireland employing EU, and/or EEA-EFTA lawyers should contact their relevant UK regulator for specific advice.

**Scotland**

Legal services business owners in Scotland should contact the relevant Scottish regulators.

**Disclaimer**

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As this area is incredibly fast moving and uncertain, it must be stated that this note only reflects current government guidance and advice, and STEP will endeavour to update it regularly.

05 January 2021