

ENTERING THE FINAL 'FRONTIER' FOR EU WORKERS POST-BREXIT - WHAT TO KNOW



European Union (EU) citizens employed or self-employed in the UK but are resident elsewhere are classed as frontier workers, those working in the UK on or before December 31 2020 can also still enter the UK for work.

Martina McAuley, HR Team company director, outlines the details of frontier worker status.

Martina said: "Since January 1 2021, most EU, EEA and Swiss citizens who are working in the UK but living elsewhere will need to hold a frontier worker permit to enter the UK as a frontier worker - in addition to a valid passport or national identity card.

"Frontier workers had until June 30, 2021 to apply for a frontier worker permit.

"It is recommended that if a frontier worker has not applied for a permit that they do so immediately.

"Although the application process was to cease on June 30, 2021 applications may still be accepted in exceptional circumstances."

FRONTIER WORKER PERMIT REQUIREMENTS:

Existing frontier workers who were employed or self-employed in the UK by December 31, 2020, can retain their frontier worker status provided they meet certain conditions.

Individuals could be eligible for a frontier worker permit if all following points apply:

- Are from the EU, Switzerland, Norway, Iceland, or Liechtenstein.
- Live outside of the UK.
- Have worked in the UK by December 31, 2020.
- Have kept working in the UK at least once every 12 months since they started working here.

Irish nationals can continue working in the UK under the Common Travel Area (CTA), an arrangement between the UK and Ireland, and will not be required to obtain a frontier worker permit. Under the UK's new points-based immigration system non-UK and non-Irish nationals who wish to begin working as frontier workers since January 1, 2021, must obtain work authorisation.

Previous frontier workers may be able to keep their status if any of the following apply:

- Unable to work because of an illness or accident.
- Involuntarily unemployed and looking for work in the UK.
- Involuntarily unemployed and in vocational training.
- Unemployed and in vocational training that is related to their previous work.
- Unable to work because of pregnancy or childbirth.
- On maternity or paternity leave, they will return to their job or find another job at the end of their leave.

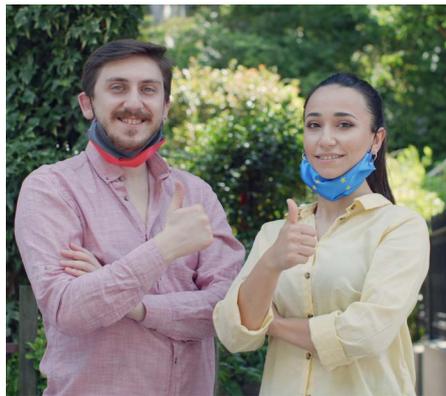
Ms McAuley continued: "The frontier worker permit provides plenty of flexibility within the regulations to cover a whole host of working patterns. "Employers must be aware which employees are cross-border workers and ensure that they remain compliant with the employment regulations and visas."

MANAGING THE PROBATIONARY PERIOD

Probationary periods are included as a standard practice in most employment contracts.

This is frequently provided for in employment contracts to allow for a trial period in which an employer can evaluate an employee's suitability and performance.

However, probationary periods are not without pitfalls, and dismissal can carry many legal risks during this trial period.



Employment contracts that do not contain a probation disclaimer could cause problems for the employer if recruitment is not successful.

THE LEGALITY OF PROBATIONARY PERIODS

Firstly, it is worth noting that although you are not legally obliged to include probationary periods for all new recruits, HR Team highly recommends doing so. Your ability to end the employment safely during the initial period will be reduced if you don't take this precaution.

Many businesses do not take advantage of the probationary period effectively which can increase the risk of unfair dismissal cases, added costs and complications of the recruitment process, as well as inefficient management.

PROBATIONARY PERIOD MISTAKES

- A failure to set out specific goals or attainments that are expected during this period and any progress meetings.
- Not communicating feedback intended to improve the employee's performance.
- Failing to gather and consider information on an employee's performance during the probationary period.
- Ignoring the end of the probationary period and failing to communicate

with the employee at this stage.

- Ignoring the probationary period entirely.

FIVE IMPORTANT PROBATIONARY PERIOD TIPS

1. Confirm the probationary period in writing with a signed contract of employment.
2. Outline basic standards for the employee.
3. Set targets for the employee.
4. Provide consistent and constructive feedback.
5. Comply with statutory and contractual notice obligations when terminating or extending the probationary period.

WHAT IS THE MAXIMUM PROBATIONARY PERIOD PERMITTED BY LAW?

There is no statutory maximum probationary period. Typically, employers provide for a probationary period of three to six months subject to extension at the employer's discretion. Employers should be mindful that it is recommended probationary periods should not exceed 11 months to ensure that an employee does not accrue enough service time to maintain a claim under the Unfair Dismissals Act.

LEGISLATION ESTABLISHING THE RIGHT TO SICK LEAVE OR SICK PAY

An employee does not have a statutory entitlement to be paid by the employer while on sick leave. This is a matter for the employer's discretion.

It is open to an employee to apply for illness benefit provided that he or she has made sufficient contributions.

HR AND EMPLOYMENT LAW WEBINAR

STAFF RETENTION - HOW TO BEAT THE JANUARY BLUES IN THE WORKPLACE



In our HR and Employment Law webinar you will discover how to effectively manage staff retention in 2022; whether working from home, the office or both.

January can be a very challenging month for both employers and employees, and it can be difficult to get motivated in the workplace.

Statistically, January is the most common time-of-year for employees to go on the search for new opportunities.

With staff now working both from home and the office, employers and managers are facing new difficulties, and it is important for employers and managers to ensure that they have effective measures in place to ensure staff remain motivated and retained.

Whilst homeworking can generate many efficiencies, it can also lead to issues in relation to motivating teams, staff feeling isolated and worst-case scenario, staff mental health issues.

Why not sign-up to our webinar to find out how to prevent staff demotivation and any negative impacts on employee wellbeing and mental health.

During this webinar, we will provide some helpful tips and proven strategies to support managers and business owners to manage staff retention effectively and efficiently in 2022.

WHO SHOULD PARTICIPATE?

Our employment law webinar will give vital HR advice to line managers, supervisors and team leaders, middle and senior managers, HR personnel, and business owners.

To register, please click [here](#)



UPCOMING HR TEAM WEBINARS IN 2022

Wednesday, January 26

Staff Retention – How to beat the January blues in the workplace

[Register Now](#)

Tuesday, February 22

Mental Health and Wellbeing of Employees

[Register Now](#)

Tuesday, March 29

Effective Performance Appraisals

[Register Now](#)

Tuesday, April 26

Sickness Absence Management

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Tuesday, May 24

How to conduct a disciplinary investigation

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How to compliantly handle a grievance

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Tuesday, September 27

Effective Recruitment and Selection

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Tuesday, October 25

How to manage social media in the workplace

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Tuesday, November 29

Using the probationary period effectively and compliantly

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Tuesday, December 13

Measuring employee performance

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