



Advice after Brexit

28 June 2016

The outcome of the UK referendum on its membership of the European Union appeared to come as a surprise to politicians and economists across the country and further afield. The short-term consequences of the referendum are already being felt in the markets but London remains a focal point for numerous sectors, not least the legal sector, because of its expertise and resilience.

The immediate consequences of the referendum on UK law are negligible. The referendum was advisory, with no legal or constitutional effect, and does not trigger the now infamous Article 50 of the Treaty of the European Union. Article 50 requires formal notification by the UK Government. There are likely to be many arguments and negotiations that will take place before that step is taken.

Therefore UK law, even that derived from European law, will remain in force today and for the foreseeable future. That includes the Human Rights Act (which incorporates the European Convention on Human Rights) and the other Acts and numerous Statutory Instruments that enshrine EU law into UK law. It will require very significant legislative changes to unravel the law that has derived from our membership of the EU and it may be that, without an adequate replacement, a great deal of it will remain in place. Rights such as privacy have now become well established in UK case law and it is almost impossible to conceive that we will return to days before these rights could be adequately protected.

It would of course be foolish to suggest that everything will remain the same and the law, like every other sector, operates within an economic and social context.

Business

From a business perspective, an obvious topic is the extent to which free-trade relationships enjoyed between the UK and EU Member States will continue. Trade agreements will have to be drawn up between the UK and Member States, which will determine the extent to which goods and services may continue to move freely between the UK and the EU without duties. Provisions may already need to be included in relevant contracts to take into account the risk of changes to these arrangements.

In terms of financial services in particular, the UK will need to consider the extent to which it will retain existing regulations derived from European law and how it will adapt to a new environment in which London will have materially less influence on EU policymaking and laws going forward.

Other key areas, such as consumer protection, environmental law, trade mark protection and data protection which derive much of their regulatory and legal framework from the EU, will need to be carefully reviewed.

Immigration

Immigration has been at the forefront of the referendum debate.

Until such time as the UK formally leaves the UK, EU nationals and their family members will be able to continue to rely on free movement rights. Once the UK leaves the EU it is unlikely that EU nationals and their family members who are already resident in the UK would be required to leave. However they may be required to apply for residence documents in the UK as proof of their status.

EU nationals who have lived in the UK for 5 years or more can apply for permanent residence and should consider doing so as soon as possible as waiting times are likely to increase significantly.

Once withdrawal from the EU has legal effect, it is more likely than not that free movement rights will be abolished. In such a situation EU nationals wishing to come to live and work in the UK would need to apply for visas under the immigration rules. The immigration rules may need amending quickly to allow companies to bring in the workers they need.

Businesses employing EU nationals may wish to advise those employees of their options so that they can take immediate action. Once the withdrawal does have legal effect, and in order to continue to bring in foreign nationals, companies may wish to apply for a sponsorship licence from the Home Office to allow them to continue to bring workers into the UK.

If you have any concerns about the impact of Brexit on your commercial or personal legal position please do not hesitate to contact us.

29 June 2016

In the event that you do not have a usual private client advisor at Payne Hicks Beach please contact Dominic Crossley (Privacy & Media Law), Kathryn Bradbury (Citizenship & Immigration) or Jonathan Gatward (Corporate) or call on 020 7465 4300.

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