

Immigration and social
security – update
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Agenda

1 Key updates across immigration and social security

- Developments in social security
 - UK developments in immigration
 - Other immigration updates
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2 Remote work

- Introduction
 - Remote work vs business travel
 - Social Security rules – EU teleworking
 - Case study – short term remote work
 - Digital Nomad Visas
 - Case Study – longer term remote work
 - Social Security outside EU
-

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Key Updates

Immigration and social security



Key updates

Social security

- **UK** - New EFTA (Iceland, Norway & Liechtenstein) Social security convention effective 1 Jan 2024. Similar to EU regulations.
- **UK** – Another mid-year change of NI rates from Jan 2024 (reduction in main banding from 12% to 10%). Watch-out for impact on Directors (at 11.5%).
- **UK** – extension of deadline to register for backdated voluntary Class 2/3 NIC to 5 April 2025.
- **USA** – Ruling from US authorities on apportionment position for RSU income. Does this have wider impact?
- **EU** – New countries (Slovenia & Italy) signed up to telework framework agreement.

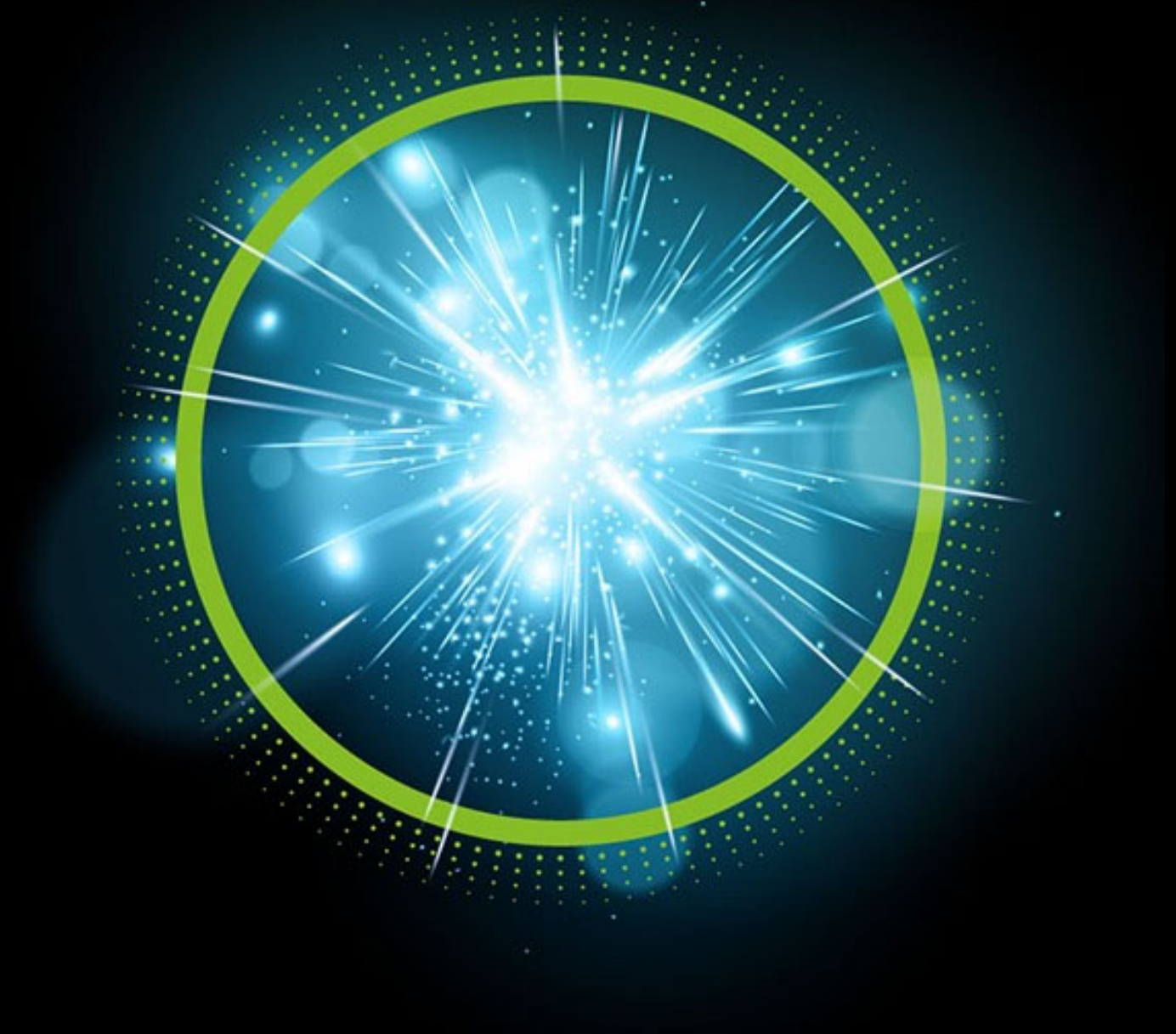
Immigration - UK

- **Remote Work:** Allows visitors to work remotely while in the UK;
- **Wider scope** for 'intra-corporate employees' and legal professionals;
- **Researchers** - allow scientists, researchers, and academics to conduct research in the UK;
- **Permitted Paid Engagements (PPE)**- speakers at conferences to be paid for this activity, those on a standard visitor visa will be able to carry out PPE.
- Increase health surcharge by 66% from £624 to £103
- Skilled Worker visa and Family visas salary thresholds, Shortage Occupation List (SOL)
- Health, Care Workers and students

Immigration – Digitisation Trend

- **ETA & ETIAS** - Digital pre-entry travel authorisations for the UK and the Schengen area.
- **Germany** - New Digitized Process for Obtaining Identification Cards, Passports, Residence and Work Permits, effective November 1, 2023
- **Panama** – A new digital platform will be fully operational for the electronic filing of SEM Visas, effective 15 September 2023.
- **UK** – Notifications from the Home Office automatically sent to migrants registered under the EU Settlement Scheme (EUSS), effective 3 August 2023. UK Visas and Immigration (UKVI) are developing a digital immigration system. This means they are replacing physical documents with an online record known as an 'eVisa'.

Remote work



Remote work is here to stay

- Covid-19 pandemic sparked the remote working trend – even post pandemic, it remains high on the agenda for employers and employees alike.
- We are only at the very start of this trend. Remote work will remain on business agendas in the future.
- To be successful in the War on Talent, businesses need to develop a remote work policy.

Poll

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Where are you now on your remote work journey?

A

Undecided – we have not yet implemented a remote work policy

B

No formal policy – some cases, but exceptions only

C

Day threshold – we have implemented a short-term remote policy but have challenges in operationalisation and tracking

D

Day threshold – We have implemented a short-term remote policy which is working well and we’re stopping there for now

E

Embracing - We have implemented a policy for short-term remote work and we’re handling longer-term business-driven and/or employee-driven requests

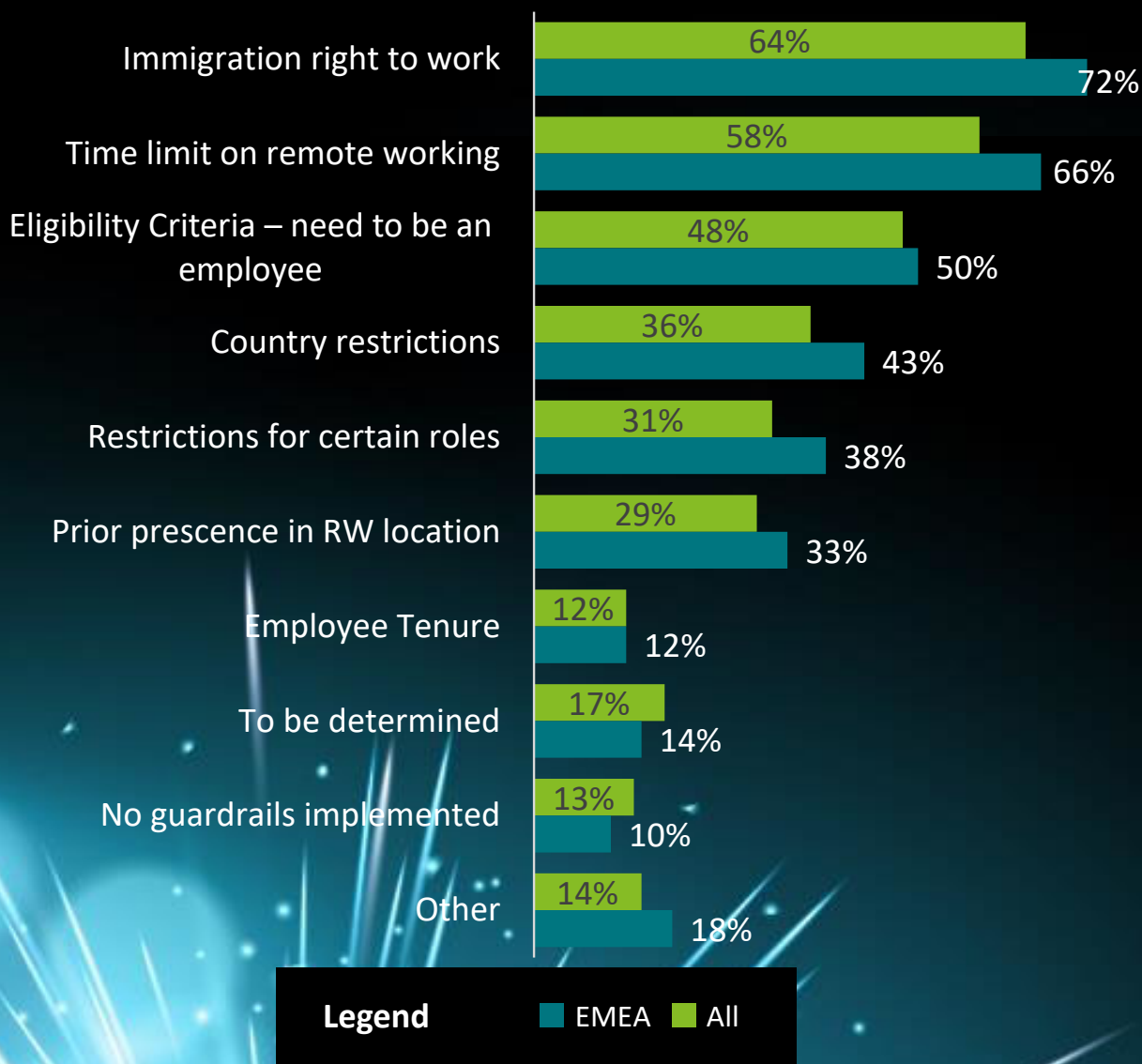
F

Don’t know/not applicable

Policy and operationalisation

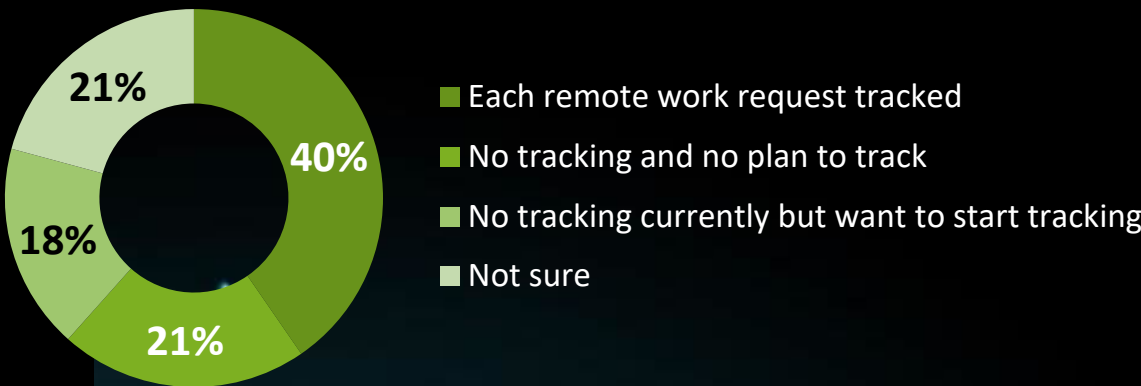
Many organisations are mindful of the need for compliance and risk mitigation and are trying to do so by defining guardrails. However, the management and enforcement of these guardrails is still a work in progress leading to lower levels of operationalisation

International cross border guardrails – Global versus EMEA



Tracking and assessment

Less than half of organisations surveyed currently **track all remote work requests**



36% of organisations surveyed **review each case before accepting/declining**

2/3 of organisations surveyed are **not actively tracking and monitoring the interaction with business travel** or **validating if employees have returned** to their usual country of work

57% of organisations surveyed that use technology **do not perform any checks on employee locations** or were unsure if checks are performed

Remote work versus business travel



Business travel

Business travellers are individuals who travel short-term on behalf of their employer for work-related purposes. Typical business travel activities include:

- Business meetings
- Participating in conferences, seminars, workshops, training sessions
- Market research
- Visiting company facilities

NOTE: This is not a universal list. Each country has their own rules which should be checked prior to travel.



Remote work

Within global mobility, remote work is a work arrangement where employees perform their day-to-day responsibilities from another country, usually from hotels, temporary apartments or family homes abroad using digital technology and the internet to stay connected to their organisation.

Some key indicators to identify remote work are that it is temporary/short-term, no office visits, no client meetings, no payment received for the work in host country, staying in temporary accommodation e.g. hotel.

NOTE: Different rules apply to remote work. It is not considered business travel.

However, as remote work becomes more important, some countries have decided to adjust visitor travel rules to permit remote work as long as it is incidental to the main activity.

NOTE: Rules are not always clear, difficult for business to navigate compliantly.

Social Security - EU Teleworking evolution

Guidance published by the EU Administrative Commission on Telework:

Temporary relaxations during the COVID pandemic. Thereafter EU acknowledged that working patterns have fundamentally changed and new guidance has been published

Guidance Note on Telework provides definition of telework and practical application of legislation to telework – applicable from 1 July 2022

Main principle of 'pay where you work' remains default position, but guidance confirms existing legislation can be applied to remote work situations (known as 'telework') in Europe

This provides for several routes depending on the type of telework

Framework agreement' for habitual cross-border telework – applicable from 1 July 2023

Aimed solely at individuals who normally work at employer's premises in one EU country, but also regularly work from a different EU country where they reside (cannot involve a third country)

Employee can remain subject to social security in the country of employment, providing less than 50% of working time is performed in country of residence. However, there are a number of restrictions which make qualifying tricky (e.g., both countries must have signed-up to the Framework Agreement. Note: the UK has not signed-up)

Social Security – EU teleworking - In practice what are options?

Temporary RW

Short term period of remote work *up to* 24 months. Can include working whilst on vacation, or simply a need to work from home in a different country for a defined period

Commuting RW

An employee who will continue to work at their normal place of work in one country, but will regularly work from home in a different country

Exceptional circs.

Can be covering an individual in exceptional situation (e.g., due to family reasons such as hospitalisation of a relative)

Can also include groups of persons in similar situation e.g., group of employees in border region of a country

What needs to be considered?

There should be an agreement in place between the employer and employee agreeing to temporary remote work

Normally an employee will be subject to social security in country of residence if working time is more than 25% in that country. However, this increases to 50% if Framework Agreement can be used

An argument should be made based on the best interest of the individual, or group of individuals concerned

A1 certificate must be obtained to evidence this position under all of the above scenarios

Case study #1 – Short-term remote work

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UK based Employee wants to work from France for 3 months, to stay with family.

As the employee can 'do their work remotely', they feel they can do it from anywhere. So why not go and stay abroad over the summer months.

Employee has read that they can enter the EU without a visa for up to 90-days

What are some of the key immigration and social security considerations that might apply here?

Case study #1 – Short term remote work

Scenario

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Immigration considerations

- Entry requirements are not the only 'test' for compliance.
- Need to be aware of time limits and knock on impacts (e.g. within the Schengen Zone)
- Need to look at activities that will be performed from day 1, *and* the 'intention of travel'.
- Can the activities/intention be supported as a Business Visitor?
- Does the host country support remote work?
- Do the activities require a work authorisation (visa or permit)?



Social security considerations

- If no action taken, then default 'pay where you work' principle would apply. French social security would be payable, creating cost and administration requirements for the UK company in France.
- However, the EU have agreed that an A1 certificate can be obtained for periods of temporary remote work, providing:
 - The employer has agreed the employee is allowed to work remotely; and
 - The work performed remotely is of a similar nature as would have been performed in the UK.
- This A1 certificate will keep the employee in UK social security (and exempt from French social security). It is important that the A1 is obtained to evidence that the employee meets the requirements.

Digital Nomad Visas



Increasing numbers but slowed down

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Countries currently offer DNVs – spread widely across the globe:

- 24 in LATAM
- 17 in EMEA
- 6 in APAC



Some key observations

- More appropriate for freelancers, gig workers and small businesses
- Untested – not being used in practice by businesses but option is being explored
- Potential option for some senior executives
- Key driver = Talent
- Next to DNVs, alternative employment models are becoming increasingly popular, especially Employer of Record companies



Considerations – holistic approach required

- Varying policies, process, qualifying criteria and document requirements
- Not company sponsored visa but sometimes employer documentation required e.g. Spain
- May not lead to permanent residency
- Unclear on the position of family members
- Employment law, social security and tax implications even though they don't hold employment contracts in the host country

Case study #2 – Longer-term remote work

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UK based Senior Executive wants to live and work in Spain for 12 months.

Company has an internal policy to allow secondments and/or remote working where pre-approved.

Intention to work mainly overseas, but with regular work (1 day per week) back in the UK.

What are some of the key immigration and social security considerations that might apply here?

Case Study #2 – Longer term remote work outside the UK

Scenario

UK based Senior Executive wants to live and work in Spain for 12 months.

Company has an internal policy to allow secondments and/or remote working where pre-approved.

Intention to work mainly overseas, but with regular work (1 day per week) back in the UK.



Immigration considerations

- Longer period of remote work will likely require a permit/visa.
- Some nationalities will have exemptions to requirements for permits (e.g. EU nationals working in other EU countries)
- Does host location support remote working?
- Are there digital nomad visa options?
- Consider UK immigration impact if UK permit holder.



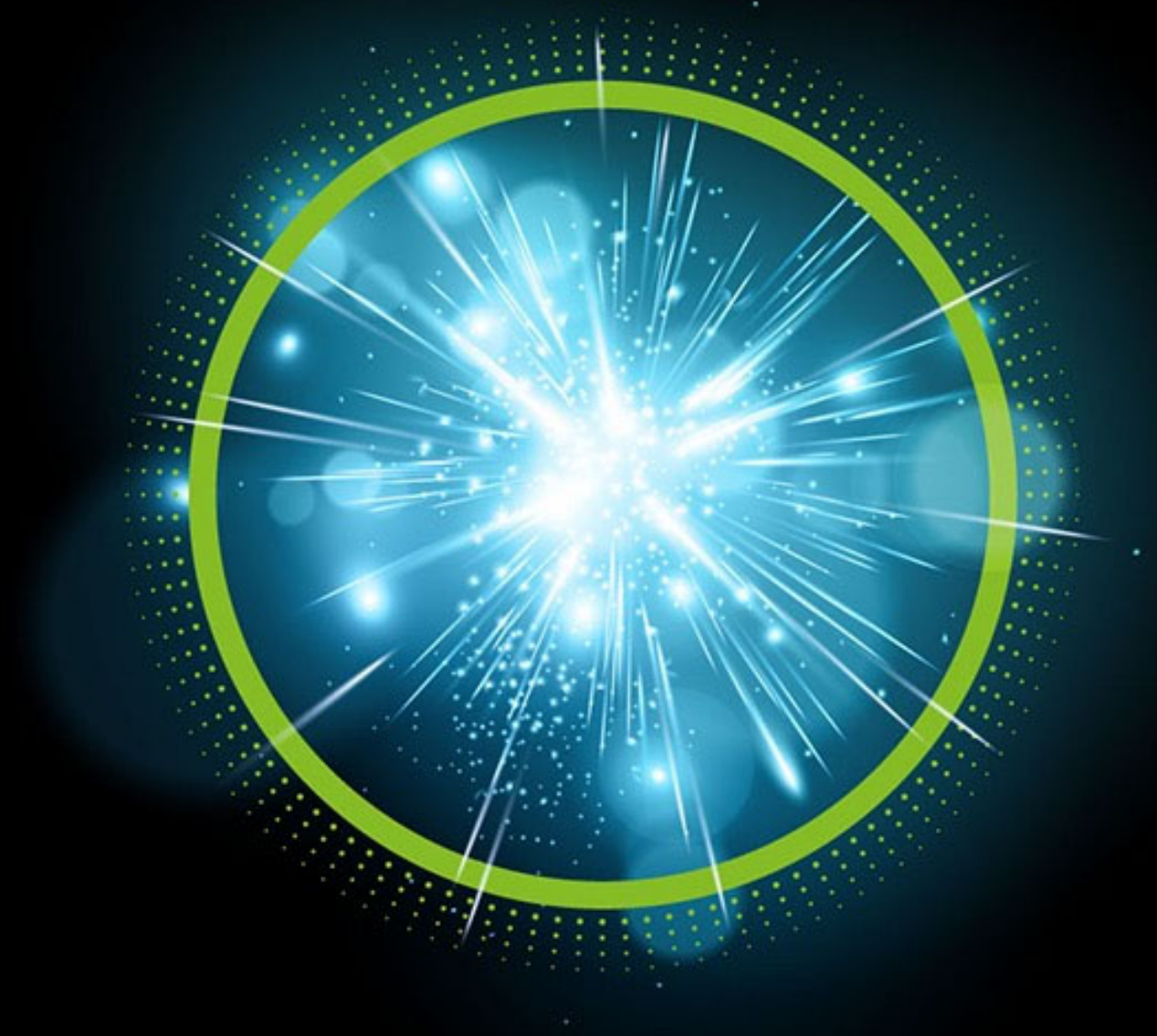
Social security

- The regular working pattern over a 12-month period would mean that this individual would be a 'multi-state' worker.
- The rules would determine he would be subject to social security in country of residence, providing he is substantially (over 25%) working in that country.
- Potential options:
 - Will individual be resident for social security in Spain if living there for only 12 months?
 - If yes, then subject to Spanish social security.
 - If no, then subject to UK social security.
 - Alternatively, can the individual consider changing work pattern to be under 25% working time in Spain?
- No possibility of 50% telework option, as UK has not signed up to the EU Framework Agreement.

Social Security outside EU

- There are very few bi-lateral social security agreements which cover remote work. Some countries are willing to use existing provisions, whereas others take a more hard-line approach. By way of example – the US/UK agreement:
 - The UK authorities are issuing CoCs for employees temporarily performing remote work in the USA.
 - The US authorities have confirmed that a CoC is strictly not applicable to remote work scenarios (as not 'sent'). Although, practically they have verbally advised that a CoC obtained under normal seconded worker provision is unlikely to be challenged.
- Very much an evolving landscape. It is likely different interpretations/practical solutions will arise over time.
- Non-agreement. Risk of dual liability where no exemption in remote work location. Although, there are practical considerations that can be low risk for short periods of remote work.

Questions





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