

Brexit's impact on the sales of Danish homes to British citizens

The United Kingdom withdrew from the EU on 31 January 2020. What is the status and what does the future hold for British citizens?



The rules on home purchases in Denmark before Brexit

Under the Acquisition of Real Property Act, it is a requirement for acquiring real property in Denmark that the buyer has a permanent residence in Denmark or has lived in Denmark for a consecutive period of five years. If the buyer does not meet this requirement, the buyer may apply to the Danish Department of Civil Affairs for permission to acquire real property.

However, due to the EU principle of 'free movement' special rules apply to EU citizens. Therefore, Denmark has adopted an exemption from the Acquisition of Real Property Act, which means that citizens of EU and EEA countries may purchase real property in Denmark without the permission of the Department of Civil Affairs.

What are the rules now that Brexit has come into force?

As the United Kingdom withdrew from the EU on 31 January 2020, this means that the Danish special rules applicable to EU citizens granting them a right to buy a home in Denmark no longer apply to British citizens.

However, before the withdrawal from the EU, the United Kingdom concluded a withdrawal agreement approved by the British Parliament and the European Parliament. This withdrawal agreement introduces a transitional period, and the United Kingdom will continue to be treated as a member of the EU during this transitional period.

In a press release at the end of January 2020, the European Commission stated that it would be "business as usual for citizens, consumers, businesses, investors, students and researchers" both in the EU and the United Kingdom.

Therefore, British citizens will continue to have the same opportunity during this transitional period to acquire real property in Denmark under certain conditions without the permission of the Department of Civil Affairs.

What happens after the end of the transitional period?

As a starting point, the transitional period runs until the end of 2020. However, it may be extended once by a maximum of two years by a mutual resolution between the British Parliament and the European Parliament by 1 July 2020.

Initially, the United Kingdom has indicated that they do not want an extension of the transitional period and British citizens should, therefore, expect the transitional period to expire on 31 December 2020.

What the legal position will be when the transitional period expires, has yet to be finally agreed upon. The United Kingdom and the EU will have to negotiate the terms of the final agreement during 2020.

The starting point will be that British citizens residing in the United Kingdom who wish to buy real property in Denmark *after* the United Kingdom's withdrawal from the EU, including after the end of the transitional period, will be considered third-country citizens. This means that the acquirer of the real property must apply for permission for the acquisition from the Department of Civil Affairs.

How is an application for home purchases assessed in Denmark?

Permission for acquisition is granted following a restrictive practice in which the Department of Civil Affairs assesses, among other things, an application based on the following criteria:

- Information on the buyer's ties to Denmark
- Whether the buyer has work in Denmark
- Whether the buyer speaks Danish and has attended courses in Danish
- Whether the buyer is married
- Whether the buyer has children with his/her spouse
- Whether the buyer's children are attending Danish institutions or similar

If you as a British citizen consider buying real property in Denmark, you may want to keep in mind that it is likely to become much harder to purchase real property in Denmark when the transitional period expires. It is not known whether a final withdrawal agreement will be adopted, which prevents Britons from being treated in the future as third-country citizens with regard to the acquisition of real property.

If you as a British citizen are considering buying a home in Denmark, it is therefore recommended that this is done before the end of the transitional period.

At NJORD Law Firm, our real estate team daily assist foreign clients with the acquisition of real property – both in Denmark and abroad. Contact us for more information.



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