

Arts Council of Northern Ireland

EU Withdrawal:

Key Legislation Changes and Implications for Northern Ireland-based Arts Organisations.

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1. Introduction

This paper aims to set out, in broad terms:

1. What the new rules look like for organisations and artists wanting to travel to or trade with counterparts in the EU;
2. What the known and anticipated impacts will be on the sector; and
3. What steps are being taken at a local and national level to alleviate impacts and manage the flow of information in a more organised and concise way.

The implications for the arts and culture sector in Northern Ireland following the UK's withdrawal from the EU are complex and multi-dimensional.

On 31 December 2020, freedom of movement between the United Kingdom and the European Union ended. Any new arrivals to the UK from the EU are now subject to standard immigration rules. UK nationals seeking to work in the EU are now considered 'third-country' nationals and need to meet the various entry requirements of each EU nation state.

2. The new rule – key changes in legislation

2.1 Visas and working in the EU (outward)

Artists and creative workers travelling to the EU for less than 90 days in a 180-day period for work will not need a visa to travel.

If you are travelling for more than 90 days in a 180-day period, you may need a visa and/or work permit. This will need to be applied for well in advance of travelling and depend on what the purpose is for the trip. Timeframes for processing your visa will take up to 90 days (3 months). Visa costs vary for each country.

For example, in France travellers will need to apply for a long-stay visa and potentially a residency permit, depending on the nature of the visit. These rules are in line with French national legislation.

In 2022, the European Commission will introduce a U.S. style electronic travel authorisation system for visitors from countries that are not part of the EU – the ETIAS. This system will check the security credentials and charge a fee to travellers visiting EU member countries for business, tourism, and other purposes.

2.2 Creatives traveling to the UK (Inward)

Options for artists and creative workers travelling to the UK are varied and dependant on the nature of the visit and length of stay.

- Creative workers are able to enter the UK for auditions / performances but payment is restricted.
- Festivals and events on the list of **permit free festivals** are able to invite entertainers or artists to take part in their event without the need to issue a certificate of sponsorship under the points-based system. Only festivals which have been established for three or more years, attract annual audiences of 15,000 or more and engage at least 15 non-EEA performers are eligible to join the list. **Belfast International Arts Festival** is the only NI-based permit free festival.
- A **Permitted Paid Engagement (PPE)** Visa is a type of temporary UK visa. In some ways, it is a cross between a Visitor Visa and a Work Visa. The visa allows its holders to enter the UK for up to one month for the purpose of doing work in their specialist profession.
- You can apply for a **T5 (Temporary Worker)** route if you have been offered work in the UK as a creative worker.¹ This replaces the old Tier 5 visa and you need to have a certificate of sponsorship from a licenced employer before you can apply to the UK to work. The full price application fee for each person applying for this visa is £244.
- The entry of creative workers into Northern Ireland through the Republic of Ireland (RoI) is referred to as 'deemed leave'. There are no routine immigration controls on persons arriving to the UK from the Common Travel Area (CTA). Deemed leave, as suggested, is permission which has not been endorsed by way of a stamp into an individual's passport, as individuals travelling from Ireland to the UK will not necessarily encounter a Border Force Officer.

Those entering the UK are entitled to six months of deemed leave, or two months of deemed leave where they have previously visited the UK on the basis of deemed leave and have not left the CTA in the meantime. Rules prohibit anyone from entering on this basis taking employment.

2.3 Working in the UK

Under the new skilled worker system, anyone coming to the UK to work will need to demonstrate that:

- they have a job offer from a Home Office licensed sponsor;
- the job offer is at the required skill level – RQF 3 or above (A Level and equivalent); and
- they speak English to the required standard.

¹ A creative worker is someone who works in the creative industry, for example an actor, dancer, musician or film crew member.

A person can be granted permission for up to 12 months initially. A Creative Worker can apply to extend their stay up to a maximum of 24 months if they are still working for the same sponsor.

3. Movement of goods

3.1 ATA Carnet

Permissions in the form of an ATA carnet are required if you are moving goods outside the UK. The ATA Carnet, often referred to as the "Passport for goods", is an international customs document that permits the tax-free and duty-free temporary export and import of non-perishable goods for up to one year. The cost of an ATA carnet is £180 (excluding VAT) for members of the Chambers of Commerce and £300 (excluding VAT) for non-members.

A carnet is also required to move goods between GB and NI. Only the Chambers of Commerce in the UK are licenced to endorse / issue carnets at present.

Goods can also enter EU member states under 'temporary admission' and the 'returned goods review'. What goods are eligible for inclusion under each rule is still unclear, creating confusion amongst organisations needing to move goods between countries for exhibition and showcasing. Sector body organisations remain reluctant to issue advice on the movement of goods for fear of litigation. Further information on ATA Carnets can be found at [GOV.UK \(www.gov.uk\)](http://GOV.UK (www.gov.uk))

3.2 Cabotage

Changes to the rules relating to cabotage will have implications for the haulage of goods e.g. concert tours to other EU countries, including RoI.

Cabotage is the loading and unloading of goods for hire or reward in one country by a vehicle registered in a different country. Under the new legislation, you can carry out up to two cabotage jobs in Ireland if you are registered as a goods vehicle operator in Northern Ireland and you have travelled from Northern Ireland. Both cabotage jobs must be completed within 7 days of dropping off the goods you brought into Ireland.

Again, clarity around this rule is inconsistent and open to interpretation depending on the size of the vehicle, what is being carried and the country being entered.

3.2 Social Security / Protocol on Social Security Coordination

The EU has notified the UK that all Member States have expressed their wish to opt-in to apply the detached worker rules. This means that workers moving temporarily between the UK and the EU will continue to pay social security contributions in their home state, and receive necessary healthcare treatment in the country where workers are temporarily posted.

4. Summary of key issues

As part of the development of this paper, the Arts Council of Northern Ireland (ACNI) held direct consultations with a number of organisations, both individually and collectively. This included production and touring companies, receiving venues, leading promoters, artist representative bodies, visual art galleries and festival organisations.

The extent and nature of impact is still largely unknown due to the masking effect of the COVID-19 pandemic, but already a range of economic and social implications are being felt that threaten to undermine the diversity and richness of the sector locally, nationally and internationally.

The following is a summary of concerns expressed at consultation meetings:

1. Visual artists are finding it more difficult to source supplies and material as GB suppliers are not willing to ship to Northern Ireland. As a consequence, alternative suppliers are being sourced in the EU.
2. There is a lack of sector specific knowledge on the import and export of goods and new rules relating to the outward and inward movement of artists. Existing information sources (including gov.uk) are wholly inadequate. NI needs a single, authoritative, and accessible source of information.
3. NI artists are becoming less visible to the EU market because of new legislation restricting the movement of artwork and artists. This will have an impact on potential employment opportunities.
4. The new rules mean it is more difficult to bring artists to NI. This has been managed, to an extent, during lockdown via virtual platforms, but in-person engagement is fundamentally important to artists' work.
5. Currently the voice of NI arts and culture sector in UK negotiations is weak. Our unique position demands a stronger lobby.
6. Anecdotal evidence points to some NI organisations formally constituting themselves in the RoI to ensure they are eligible for EU funding (e.g. Creative Europe). It is not clear whether activity delivered in Northern Ireland will be permitted under these

circumstances. This option was not considered feasible for the majority of small to medium scale organisations operating in Northern Ireland because of the bureaucracy involved.

7. The inability to access European funding will restrict the exposure of NI audiences to a more diverse range of social perspectives, including those from other post conflict societies.
8. Trans-national partnerships that once generated opportunities for community artists to work in interface areas (e.g. Fountain and Bogside areas of Derry) are now less possible.
9. The impact on touring companies is threefold:
 - major sources of funding have been lost;
 - EU-based receiving houses are booking alternative acts to avoid additional costs and bureaucracy;
 - Earned income will suffer, creating further dependency on exchequer budgets².
10. The Grand Opera House has shortened planned autumn runs by touring productions such as *Grease* and *Six - The Musical*, to mitigate against potential disruption. This will have a direct impact on box-office income and the night time Belfast economy.
11. Northern Ireland will become a less attractive destination for musicians of all genres as fees paid here are a lot lower compared to EU member states. The additional cost and uncertainty associated with travel to NI will impact on the diversity of the artistic product here. This is of particular concern given Belfast's bid to become the UNESCO City of Music.
12. The EU is a vital marketplace for emerging and existing NI musicians, enabling them to develop their skills, grow a fan base and earn an income. For example, the market for Irish Traditional Music isn't only in Ireland, it's in countries like Germany and France.
13. Given the significance of Brexit from an NI perspective, it would be important for it to be added to the terms of reference for the newly formed Cultural Taskforce.

² Some tour-based organisations generate up to 25% of their income from N/S touring.

5. Current lobbying and sector support activity

5.1 Arts Infopoint UK (Arts Info Point UK)

The four national arts development agencies in the UK have joined together to set up the Arts Infopoint UK. Its function is to support the continued mobility of artists internationally by providing practical advice and information on issues such as visas, work permits and residencies. It will run as a pilot until the end of 2021.

Some of the work Arts Infopoint UK will undertake over the coming year includes:

- Facilitating a series of country-specific seminars to understand country-specific entry requirements. To date, sessions have been arranged for France, Germany and the Netherlands.
- Developing a web portal to gather, in one place, useful resources and information related to practical issues on artist mobility into the UK such as visas, work permits, taxation and social security.
- Signpost to existing resources and information developed by the leading sector bodies in the UK, as well as to our Infopoint partners across the EU and worldwide on artist mobility out of the UK.
- Research and gather data on the biggest challenges that international artists are facing and use this information to advocate for the needs of the arts sector and work on finding solutions. –
- Test the development of an enquiry and information service for artists.

5.2 Four Nation Group

With oversight over the work of the Arts Infopoint UK, this group incorporates senior representative from each of the UK leading arts development agencies and aims to strengthen collaboration locally and internationally for the benefit of artists and arts organisations.

Brokered through the Goethe Institute (London) and Fonds Soziokultur³, the group has agreed to support a UK / Germany bi-lateral to connect artists under the theme of socially engaged practice with children and young people. The programme will work with the British Council in Germany to form new or build on existing relationships between artists / arts organisations at a sub-regional level.

The Arts Council of Northern Ireland is contributing to this group and will share information and updates with all of our stakeholders as it emerges.

³ a non-profit organisation made up of eight national federations devoted to socio-cultural work in Germany

5.3 DCMS Touring Working Group

Convened by Caroline Dinenage (Minister of State at the Department for Digital, Culture, Media and Sport), and involving lead sector bodies and regional development agencies, this group's work is focusing on mitigating the impact of Brexit on UK touring to the EU.

Operating within the boundaries of the UK / Brussels agreement, its work is focused on:

- Clarifying touring arrangements with each of the 27 EU member states.
- Refining information on the Gov.uk website relating to Brexit to remove ambiguity and ensure sector relevance.
- Refining new legislation to ease the movement of goods and people (e.g. cabotage and T5 entry requirements).
- Gathering regional evidence of impact.
- Exploring sectors short- and long-term needs, including funding opportunities and the value of a dedicated Export Office.

5.4 International Touring and N/S Collaboration

The full impact of EU withdrawal on all-island touring is still largely unknown, but restrictions on the movement of goods and people is likely to disrupt activity to some extent, depending largely on the scale of activity.

This will extend to support staff such as drivers, technicians and stage designers working in the wider creative industries.

Cross-border touring-based activity by Northern Ireland-based organisations had remained constant up to the UK's withdrawal from the EU and the onset of the COVID-19 pandemic – this is despite the closure of dedicated touring programmes supporting UK and north/south touring activity.

Data from ACNI's Annual Funding Survey shows us that:

- In 2019/20, 40% (n=39) of core-funded organisations delivered activity in one or more EU country. The majority of these (n=25) toured activity solely to RoI.
- On average each year, 200 venues were visited in EU member states (including RoI) with over 700 performances, exhibitions or participation based events were delivered.
- Behind RoI, France and Germany were the two most frequently visited EU member states.

- The 25 organisations touring activity to RoI in 2019/20 visited 173 venues and delivered 275 performances.
- Touring, beyond the EU, remains an important part of core funded organisation schedules with eight clients delivering work in countries including USA, Canada, Russia and China.

This activity represents only a small proportion of touring activity North / South and South / North, with commercial touring likely to take the largest financial hit as a consequence of the new ATA Carnet and Cabotage rules.

Conversations with officials at An Chomhairle Ealaíon indicate that Brexit is not high on the policy agenda at the moment, with the fallout from COVID-19 still dominating.

Partly as a consequence of COVID-19, the EU has increased the new Creative Europe Programme (2021-2027) budget by 17 per cent. Northern Ireland's 'third country' status prevents organisations from accessing this funding directly, but they may still be able to partner RoI and EU organisations under specific programme strands. To this end, the Cultural Europe Desk plans to host a cross-border seminar on opportunities for collaborative working once the new programme is open. This will include Inter-Trade Ireland, SEUPB and Horizon Europe.

In Budget 2021, the Irish government announced the Shared Island Fund, with a planned €500m to be made available to 2025. The Shared Island Fund provides significant new, multiannual capital funding for investment on a strategic basis in collaborative North/South projects that will support the commitments and objectives of the Good Friday Agreement.

6. Next steps

1. There was support at the round table meeting for the creation of a dedicated sector reference group to support ACNI lobbying activity at the NI and UK level. This would provide a useful 'touchstone' for the Arts Council and be comprised of a broad based membership including: festivals, touring organisations, event organisers, receiving venues and resource organisations.
2. The evidence generated from consultations with this group will be fed into DfC and DCMS channels to highlight the impact of Brexit on the NI arts and culture sector. NI Assembly researchers are also being kept abreast of developments.
3. Dialogue with RoI on the topic of EU Withdrawal has been opened. ACNI will continue to monitor impacts and engage funders to explore options for Northern Ireland-based arts organisations to access EU funding.

4. ACNI will continue to push for addition short- and long-term funding opportunities that may emerge from Whitehall to mitigate the impact of Brexit on the cultural sector. This includes input into the design of the proposed Export Office.
5. ACNI will continue its collaboration with British Council, Arts Council Wales, Creative Scotland and Arts Council England to promote and support international exchange and dialogue.

For further information on any of the issues raised in this report contact Graeme Stevenson (ACNI, Strategic Development) at gstevenson@artscouncil-ni.org.

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