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UK Visas and Immigration

Policy paper

Factsheet 4: social security co-ordination

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What does the bill do?

The government introduced the Immigration and Social Security Co-ordination (EU Withdrawal) Bill in the House of Commons on 5 March 2020.

The bill contains a power which enables the government (and/or, where appropriate, a devolved authority) to amend the retained EU social security co-ordination rules and deliver policy changes at the end of the transition period.

Background

The EU Social Security Coordination Regulations (“SSC Regulations”) co-ordinate access to social security for individuals moving between EEA states (and Switzerland).

The SSC Regulations apply to EEA citizens and UK nationals in the UK and in the EEA, and to some non-EEA citizens. The SSC Regulations determine which EEA state’s social security legislation applies: the rules ensure an individual is only subject to one EEA state’s legislation at any one time, determine where contributions are due and which state is responsible for payment of certain types of benefit including the State Pension, UK contributory benefits as well as some non-contributory benefits. The SSC Regulations provide for equal treatment of those in scope and for EEA states to take into account periods of work, insurance or residence in another EEA state when determining entitlement to benefit, which is known as “aggregation”. The SSC Regulations also enable individuals, in certain circumstances, to receive certain benefits from the UK irrespective of where they reside in the EEA (i.e. UK nationals and EEA citizens can export benefits from the UK).

The SSC Regulations are retained in UK law at the end of the transition period by the [EU \(Withdrawal\) Act 2018](#), and this bill takes a power which allows an appropriate authority to modify these retained SSC Regulations (and to make necessary consequential modifications to primary legislation and other retained EU law). An “appropriate authority” is defined as the Secretary of State or the Treasury, a devolved authority, or a Minister of the Crown acting jointly with a devolved authority.

The [EU \(Withdrawal Agreement\) Act 2020](#) establishes a cohort of citizens to whom the EU’s social security co-ordination rules will continue to apply after the end of the transition period, no matter what the future relationship covers. This cohort primarily consists of EU citizens living or working in the UK and UK nationals living or working in the EU at the end of the transition period as well as certain other groups. Changes to the rules on social security co-ordination made under this bill will not be applied to this group for as long as they remain in scope of the Withdrawal Agreement. The EU (Withdrawal Agreement) Act 2020 also protects the social security position of individuals who have lived and worked between the UK and the EU by the end of the transition period.

The UK signed an [agreement with Ireland](#) in February 2019 which protects the social security rights of all UK and Irish citizens travelling between the UK and Ireland.

What will the government use these powers to do?

As set out in the [UK’s approach to negotiations with the EU](#), social security coordination can remove barriers and support mobility of labour between

countries. The UK Government has set out that it is ready to work to establish practical, reciprocal provisions on social security coordination under the future relationship and that any agreement should be similar in kind to agreements the UK already has with countries outside the EU and respect the UK's autonomy to set its own social security rules.

The manifesto committed to changes to future social security coordination arrangements, including stopping the export of child benefit. That is why we are bringing forward social security powers within the Immigration and Social Security Coordination (EU Withdrawal) Bill, to enable the UK to respond to its withdrawal from the EU by making changes to social security arrangements from the end of the transition period.

As set out in the [UK's points-based immigration system: policy statement](#), access to income-related benefits will be the same for EU and non-EU citizens arriving after January 2021; it will only be permitted after indefinite leave to remain is granted, usually available after five years of continuous residence. As certain UK benefits paid to EEA/Swiss nationals in the UK fall under the scope of the SSC regulations as Special Non-Contributory Benefits, the government will need the power in the SSC clause of the bill to deliver on this commitment.

To ensure the use of the power is subject to full Parliamentary scrutiny regulations issued pursuant to this power will be subject to the draft affirmative procedure, meaning they will only be made with the approval of both Houses of Parliament.

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