

Social security impact of Brexit



Law Centre (NI)

At a glance

There is much uncertainty over the impact of leaving the European Union on social security for both EU nationals living in the UK, UK nationals living in EU countries, and cross-border workers (people who live on one side of border between Northern Ireland and the Republic of Ireland and working in the other jurisdiction).

In the short term, all current social security arrangements will remain as they are for EU nationals living in the UK, and for UK nationals living in other EU countries. In the medium term, there could be extensive changes.

This briefing sets out for advisers:

- the benefits that a person can continue to receive when they are no longer living in the UK, and
- the benefits that are currently available in cross-border circumstances.

Law Centre (NI)

- promotes social justice and provides specialist legal services to advice organisations and disadvantaged individuals
- in five areas of law: social security, community care, mental health, employment, trafficking and asylum
- through advice, casework, training, information and policy services

Our advice line

9.30 to 1pm, Monday to Friday: 9024 4401

1. Impact on social security of leaving the European Union

In the short term, all current social security arrangements will remain as they are for EU nationals living in the UK, and for UK nationals living in other EU countries.

In the medium term, there could be extensive changes.

2. Number of people who could be affected¹

It is impossible to predict what will happen in the medium to long term, including whether existing EU migrants in the UK (or UK migrants in the EU) will maintain their current social security entitlement. Potentially:

- 3 million EU nationals currently residing in the UK,
- 2 million UK nationals currently residing in other EU member states,
- any future EU migrants to the UK and UK migrants to EU member states,
- cross border workers. In 2010, the Centre for Cross Border Studies estimated that 23,000 people crossed the Irish border to work. This is thought to be an underestimate.²

It is currently anticipated that negotiations to conclude Brexit could take up to ten years.

4. What benefits are currently ‘exportable’?

It is not possible to predict how benefits will be affected.

Currently, it is possible to export *certain* benefits within the EU. Therefore, change *may* affect the export of the following benefits:

- State Retirement Pension,
- Contribution based ESA,
- Attendance Allowance,
- care component (NOT mobility component) of DLA,
- Daily Living component of PIP,

¹ Lecture by Professor Michael Dougan, Liverpool University www.youtube.com/watch?v=USTypBKEd8Y

² Border People Briefing – April 2015 Cross Border Family Benefits

- Carers Allowance,
- Family benefits such as Child Benefit and Child Tax Credit,
- bereavement benefits,
- Winter Fuel Payment,
- maternity and paternity benefits.

Other areas of the social security system that *may* be affected include:

- the use of national insurance contributions paid in the UK or other member states to qualify for entitlement to such benefits in the UK or other member states,
- the payment of in-work benefits claimed by EU nationals working in the UK, including Child and Working Tax Credit, Child Benefit, Housing Benefit and Universal Credit,
- the payment of in-work benefits to cross-border workers (for example living in the Republic of Ireland and working in Northern Ireland).

5. Specific cross-border issues for Northern Ireland and the Republic of Ireland

- It is generally EU rules which allow people living on one side of the border but working on the other to claim benefits from potentially either or both states.

Without EU law, there remain bilateral agreements between Ireland and the UK that may ensure that a person's pension rights or contribution-based benefit rights are protected.

- Certain benefits, such as Disability Living Allowance (DLA) or Personal Independence Payments (PIP), are not currently covered under bilateral agreements. Once EU law no longer applies, there is no other current provision to allow a person who is not resident in the UK to receive these benefits.

6. EU nationals and residence documents

At present, residence rights of EU nationals depend on their factual situation rather than possession of a residence document. Persons with possible entitlement to permanent residence under EU law either now or who may acquire it within the next two years may want to consider an application for a permanent residence certificate. Applications cost £65.

For more information, see www.freemovement.org.uk/brexit-what-should-eea-and-eu-nationals-and-their-family-members-do-now/, in particular 'Get residence' paragraph on how to apply.

Note that only solicitors and organisations accredited with OISC can legally give immigration advice in the UK.

7. Cross-border workers and UK nationals in other EU countries

It is important to reiterate that no changes will happen in the immediate future. However, if in doubt about your status, seek legal advice in the country where you live.

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