Department for Work & Pensions	Impact Assessment Final

Title of measure		Update to impact assessment on DWP aspects of social security coordination provisions under the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 and EU (Future Relationship) Act 2020.
Lead Department/Agency		Department for Work and Pensions (DWP)
Planned coming into force /implementation date		1 January 2021
Origin (Domestic/EU/Regulator)		Domestic
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Departmental Assessment		Self-certified
Total Net Present Social Value (over 10 year period): DWP will provide an estimate of changes in DWP benefit expenditure resulting from the policy a future fiscal event. However, as DWP treats any changes in benefit expenditure as transfer payments for economic appraisal purposes, changes in benefit payments are excluded from the overall estimate of net present social value.	Equivalent Annual Net Direct Cost to Business (EANDCB) (over 10 year period): £m ZERO	Business Impact Status: Non-Qualifying Regulatory Provision

Overview of social security coordination

1. The EU Social Security Coordination Regulations ("EU SSC Regulations")[1] coordinate access to social security for individuals moving between EU, EEA states and Switzerland. The purpose of the EU SSC Regulations is to facilitate the exercise of free movement rights by requiring Member States to coordinate the social security rights of individuals when moving within the EU, EEA and Switzerland.

2. The EU SSC Regulations determine which state's social security legislation applies: the rules ensure an individual is only subject to one state's legislation at any one time, determine where contributions are due and which state(s) are responsible for payment of certain types of benefit including state pensions, contributory benefits as well as some non-contributory benefits. The EU SSC Regulations require equal treatment of those in scope and for states to take into account periods of relevant work, insurance or residence in another state when determining entitlement to benefit, known as "aggregation". The EU SSC Regulations also require the payment, in certain circumstances, of certain benefits from a Member State to eligible individuals residing in another EU/EEA Member State, (i.e. citizens could "export" benefits from one Member State to another provided they met the qualifying conditions).

[1] Regulation 883/2004, Regulation 987/2009, Regulation 1408/1971, Regulation 574/1972 and Regulation 859/2003.

3. As the UK has left the EU and following passage of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (ISSC Act), free movement ended on 31 December 2020. At the end of the transition period, the EU SSC Regulations which operated on a reciprocal basis across the EU, EEA and Switzerland ceased to apply to the UK.

4. Nevertheless, social security coordination can support mobility of labour between countries, as is recognised through a range of reciprocal agreements that the UK has with a range of countries across the world. The UK has thus agreed new reciprocal provisions on social security coordination as part of the UK-EU Trade and Cooperation Agreement, offering protection of various social security rights following the end of the Transition Period on 31 December 2020 for people who look to move between the UK and the EU after this date for work or retirement. This new Protocol on Social Security Coordination (SSC Protocol), which is not a continuation of the EU SSC regulations, was implemented via the EU (Future Relationship) Act 2020.

Summary - Intervention and impacts

Background

5. Section 6 of the ISSC Act provides a power to modify the retained direct EU legislation relating to social security coordination, which is explained at section E3 of the impact assessment published alongside that Act.[2] As set out at paragraphs 194-195 of that impact assessment, it was not possible at that time to make any detailed analysis of the impact of the changes under Section 6 of that Act.

6. Following the exercise of the power at Section 6 of the ISSC Act in the Social Security Co-ordination (Revocation of Retained Direct EU Legislation and Related Amendments) (EU Exit) Regulations 2020,[3] and the conclusion of negotiations with the EU in this policy area, including the new SSC Protocol, implemented via Section 26 of the EU (Future Relationship) Act 2020, the Department for Work and Pensions (DWP) is now publishing this further impact assessment specific to changes in social security coordination relating to DWP policy. The Department of Health and Social Care made separate provision and published a separate impact assessment in respect of reciprocal healthcare.[4]

7. In 2019/20, over £2 billion was spent on exporting DWP benefits and pensions to around 500,000 claimants living in the EU, EEA or Switzerland.[5] Almost 90% of this expenditure was on the UK State Pension which is payable worldwide under domestic legislation but only uprated where there is a reciprocal agreement between countries or institutions to do so. Over 90% of current recipients of a DWP benefit/pension in the EU, EEA or Switzerland are UK/Irish nationals.

8. In-country access to UK benefits (other than contributory benefits) in the UK for EU, EEA and Swiss citizens is not within the scope of this impact assessment, as the changes being made in that area following the UK's departure from the EU result from changes in social security and immigration legislation made by the Immigration and Social Security Co-

[2] "Impact Assessment for Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2020", IA No: HO0346, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885682/2020-05-18_IA_ImmSSC_Billl_v21_with_Signature.pdf

[3] https://www.legislation.gov.uk/uksi/2020/1508/contents/made

[4] "Combined Impact Assessment for the National Health Service (Charges to Overseas Visitors) (EU Exit) Regulations, Social Security Coordination (Reciprocal Healthcare) (EU Exit) Regulations 2019 and National Health Service (Cross Border Healthcare) and (Miscellaneous Amendments) (EU Exit) Regulations 2019",IA No:13014, https://www.legislation.gov.uk/ukia/2019/117/pdfs/ukia_20190117_en.pdf?_sm_au_=iVVVbK07KVqGDftqW2MN0K7K1WVjq

[5] Taken from DWP Official Statistics Website Stat Xplore https://stat-xplore.dwp.gov.uk/webapi/jsf/dataCatalogueExplorer.xhtml

ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020.[6] An impact assessment can be found here: https://www.legislation.gov.uk/ukia/2020/80/pdfs/ukia_20200080_en.pdf

Exempt individuals

9. As set out at paragraph 198 of the ISSC Act impact assessment, the changes will not apply to those in scope of the Withdrawal Agreement (and parallel agreements with the EEA and Switzerland).[7] The EU (Withdrawal Agreement) Act 2020 established a cohort of citizens to whom the EU's SSC Regulations will continue to apply after the end of the transition period for persons within scope of the Withdrawal Agreement. Those covered by the Withdrawal Agreement social security coordination provisions include, amongst others:

- UK nationals living or working in the EU, EEA or Switzerland at the end of the transition period (31 December 2020), while they continue to live or work in the EU, EEA or Switzerland. This includes UK-EU/EEA/Swiss dual nationals who have acquired their EU/EEA/Swiss nationality by naturalisation, after exercising EU free movement rights before the end of the transition period;
- EU, EEA and Swiss citizens living or working in the UK at the end of the transition period, while they continue to live or work in the UK. This includes EU/EEA/Swiss-UK dual nationals who have acquired their UK nationality by naturalisation, after exercising EU free movement rights before the end of the transition period;
- Other groups are set out at paragraphs 20-21 of the following technical guidance: https://www.gov.uk/government/publications/social-security-arrangements-between-the-uk-and-the-eu-from-1-january-2021-staff-guide

Ireland

10. The UK signed an agreement with Ireland in February 2019 which protects the social security rights of all UK and Irish nationals, travelling between the UK and Ireland, whether or not they are covered by the Withdrawal Agreement or the Trade and Cooperation Agreement.[8]

Temporary absence

11. There are no changes being made to the longstanding rules which allow benefits to be paid abroad when an individual is temporarily absent, set out in table 6.8 (for DWP) of the Policy Equality Statement published on introduction of the ISSC Act.[9] Other longstanding domestic rules, for example on the payment of the UK State Pension worldwide, are not changing.

Brief description of viable policy options considered (including alternatives to regulation)

Do Nothing Option

12. If DWP did nothing, then it would have been required to unilaterally apply, as far as possible, retained EU SSC Regulations, outside of the Withdrawal Agreement and the SSC Protocol in the UK-EU Trade and Cooperation Agreement. This unilateral application would not have protected any UK citizen relying on EU Member States for benefit (including pension) payment outside of domestic rules. The EU's SSC Regulations are designed to operate on the basis of reciprocity between EU Member States (and the EEA states and Switzerland) as it is not possible for one state to unilaterally impose social security obligations on another. The principle of reciprocity is widely recognised as the basis on which international

[6] https://www.legislation.gov.uk/uksi/2020/1309/contents/made

[7] References to the Withdrawal Agreement should be taken to include the equivalent agreements with the EEA-EFTA countries and Switzerland.

[8] "UK/Ireland: Convention on Social Security [CS Ireland No.1/2019]", https://www.gov.uk/government/publications/cs-ireland-no12019-ukireland-convention-on-social-security

[9] "Policy Equality Impact Assessment Social Security Coordination" https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/870582/Policy-equality-impact-assessment-social-security-co-ordination.pdf?_sm_au_=iVVq57Mbsk7FrH4NW2MN0K7K1WVjq

arrangements on social security are operated. To do nothing was therefore not considered viable.

Preferred Option

13. Prior to EU membership the UK had a range of different bilateral social security agreements with 20 countries in the EU/EEA and Switzerland. These agreements included provisions on aggregation and uprating of state pension, provisions to ensure workers and their employers only pay social security contributions in one state at time,[10] as well as some provisions on other benefits. The UK has a number of other social security agreements with so-called 'third countries' which include provisions on benefits and pensions to varying degrees.[11]

14. As summarised in the original impact assessment at paragraph 196, the Government made its position clear at the start of negotiations that it would be seeking provisions with the EU in this area, as opposed to having no agreement and relying only on respective domestic provisions.[12] The Government set out that any agreement should operate on the basis of reciprocity; respect the UK's autonomy to set its own rules in this area; and, be similar in kind to the agreements the UK has with countries outside the EU in this area.

15. On 19 May 2020 the Government published its draft negotiating text on social security coordination.[13] This included DWP provisions in relation to aggregation and uprating of the state pension, only. In the development of the final agreement reached with the EU (summarised at paragraph 24-26), DWP considered the principles set out in paragraph 14 above in addition to longstanding UK policy outside of EU rules; considerations of operability and taxpayer fairness; and, the wider policies of supporting labour mobility and trade; ending CJEU jurisdiction; and, no extension of the transition period.

16. On 24 December 2020 the UK agreed a new reciprocal agreement with the EU. Unlike policy changes in other circumstances, changes arising from the new agreement were, necessarily, subject to a degree of uncertainty until agreed with the EU and its Member States. The Government is seeking to put in place similar provisions on a reciprocal basis with the EEA states and Switzerland. Interim arrangements have been put in place with Norway and separately with Switzerland.

Alternative Options

17. It was not considered a viable option to continue to operate full social security coordination rules with the EU on a reciprocal basis. These rules are predicated on EU membership and specifically support free movement, and the UK has left the EU and ended free movement. Furthermore, DWP sought to align any new social security coordination agreement with its international social security agreements.

18. DWP considered the export of contributory Employment and Support Allowance (ESA-C – now known as New Style ESA) under the new SSC Protocol, as although not designed to be exported, export of its predecessor incapacity benefit was explicitly included in some reciprocal social security agreements. To export ESA poses difficulties in ensuring compliance with eligibility requirements (for example, requiring other countries to conduct Work Capability Assessments on behalf of the UK Government – this is a functional rather than a medical assessment and in some countries there are barriers in place to conducting

[10] Provisions determining the state in which social security contributions are paid is policy competence of HM Treasury and not within the scope of this impact assessment.

[11] https://www.gov.uk/government/publications/reciprocal-agreements

[12] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868874/The_Future_Relationship_with_the_EU.pdf

[13] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/886015/DRAFT_Social_Security_Coordination_Agreement.pdf

the WCA, and any follow up under the guidance of a work coach). Pro-rata calculation and payment of ESA is an EU SSC provision, only.[14]

19. DWP considered other provisions, including the export of unemployment benefits, the export of Personal Independence Payment, Disability Living Allowance, Attendance Allowance and Carer's Allowance. With the exception of within the historic Common Travel Area, these provisions are not included in the UK's international agreements on social security and are not designed to be paid overseas.[15] This was therefore not DWP's preferred option and the Government negotiated in line with these longstanding policy principles.

Communications and notice of changes

20. DWP gave notice that the future policy in this area was subject to the outcome of negotiations with the EU, on 24 January 2020. This notice was updated on 13 July 2020 in response to progress in negotiations with the EU. DWP gave notice that changes were expected including on the export of disability benefits. The notice was published on the Government's webpage "Benefits and pensions for UK nationals in the EU, EEA or Switzerland", the key sections of which are detailed in the box below:[16]

> Moving to an EEA state or Switzerland from 1 January 2021
>
> If you are not covered by the Withdrawal Agreement and you move to live in an EEA state or Switzerland on or after 1 January 2021, your right to receive some UK benefits will change. Some benefits may only be paid for a time-limited period in these countries in future.
>
> The changes to these rules will depend on the outcome of negotiations with the EU. If you are considering moving to the EU on or after 1 January, please continue to check this page for future updates.
>
> […]
>
> Benefits
>
> The Government is seeking to agree new rules with the EU to resemble the rules we have with non-EU countries. The rules depend on negotiations and may change. This includes but is not limited to:
>
> - stopping the payment of Child Benefit for those not covered by the Withdrawal Agreement
> - changes to rules governing the payment of other benefits abroad for example disability benefits, for those not covered by the Withdrawal Agreement
>
> You will still be able to receive disability benefits abroad for a time-limited period, for example while undergoing planned medical treatment, as long as you meet the qualifying conditions.
>
> You'll also be able to receive Industrial Injuries Disablement Benefit in the EEA or Switzerland, as long as you meet the qualifying conditions.
>
> Under current rules, social security contributions made in an EEA state or Switzerland can be used to help you qualify for some UK benefits, for example New Style Jobseeker's Allowance and New Style Employment and Support Allowance

[14] The reciprocal agreement between the UK and USA includes pro-rata aggregation provisions covering the predecessor benefit to ESA, incapacity benefit. When ESA was introduced in 2008, the UK Government informed the USA Government that the RA would not apply to ESA.
[15] The former UK-Norway bilateral agreement included some coordination of Attendance Allowance, but not export.
[16] https://www.gov.uk/guidance/benefits-and-pensions-for-uk-nationals-in-the-eea-or-switzerland

21. Any users of the Government's Brexit Checker tool on gov.uk which launched on 13 July, who indicated that they were a UK national and planned to move to the EU, EEA or Switzerland (excluding Ireland) for over 90 days, were directed to check this page on their personalised actions, as part of a wider communications campaign targeting 'future movers'.

22. The following notices were published during the passage of the ISSC Act:
    - Impact assessment paragraph 190:

"The provision in the Bill allows amendments to be made to retained EU law concerning social security coordination, allowing the UK to implement policy changes at the end of the transitional period. For example, in relation to rules concerning the export of UK benefits to EU MSs for those persons who are not covered by the withdrawal agreement."[17]

- Factsheet published on 15 July 2020:

"The government has been clear there will be changes to future social security co-ordination arrangements including, as announced at Budget 2020, stopping the export of child benefit.[18] Our future Social Security Coordination arrangements are subject to negotiations with the EU. The UK expects arrangements in relation to, but not limited to, disability and unemployment benefits will also change and are likely to be less comprehensive in future. Some benefits will in future be available for a time-limited period, in line with the rules for non-EEA countries, for those who move to the EU from the end of the transition period and are not covered by the Withdrawal Agreement. This is governed by current UK law."[19]

Outline of the preferred option

23. The new social security coordination policy with the EU has been agreed on a reciprocal basis as part of the SSC Protocol in the UK-EU Trade and Cooperation Agreement.

24. The provisions in the Protocol on Social Security Coordination will ensure that individuals who move between the UK and the EU in the future will have their social security position in respect of certain important benefits protected. Individuals will be able to have access to a range of social security benefits, including reciprocal healthcare cover and an uprated state pension. Under the Protocol, the UK and EU Member States will be able to take into account relevant contributions paid into each other's social security systems, or relevant periods of work or residence, by individuals for determining entitlement to a state pension and to a range of benefits. This will provide a good level of protection for people working in the UK and EU Member States. The Protocol also provides for the uprating of the UK State Pension paid to pensioners who retire to the EU.[20]

25. Specifically, under the SSC Protocol, individuals in scope will be able to benefit from the coordination of the following categories of benefits, on a reciprocal basis:
    - Old Age Benefits: Including the aggregation, export and annual uprating of State Pensions.
    - Maternity and Equivalent Paternity Benefits: Including the aggregation and export of UK Maternity Allowance.

[17] "Impact Assessment for Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2020", IA No: HO0346, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885682/2020-05-18_IA_ImmSSC_Billl_v21_with_Signature.pdf

[18] Child benefit is a policy competence of HM Treasury and is not within the scope of this impact assessment.
[19] https://www.gov.uk/government/publications/immigration-bill-2020-factsheets/factsheet-4-social-security-co-ordination
[20] See Page 23: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948093/TCA_SUMMARY_PDF.pdf. Reciprocal healthcare is policy competence of the Department for Health and Social Care.

- Benefits in relation to accidents at work and occupational diseases: Including the export of UK industrial injuries benefits.
- Survivor's benefits: Including the export of UK Widow's Pension, Widowed Mother's Allowance and Widowed Parent's Allowance.[21]
- Death grants: Including the aggregation and export of UK Bereavement Support Payment (BSP).
- Unemployment benefits (aggregation only, no export): Including aggregation of UK contribution-based Jobseeker's Allowance (JSA-C).
- Invalidity benefits (aggregation only, no export): Including aggregation of UK contributory Employment and Support Allowance (ESA-C).
- Sickness benefits: Including aggregation and export of cash sickness benefits. In the UK this includes export of UK Statutory Sick Pay (SSP). The export of SSP is provided for in UK domestic law, but including it in the SSC Protocol ensures reciprocity from Member States. This does not include the coordination of long-term care benefits as a sub-category of cash sickness benefits, such as Personal Independence Payment, Attendance Allowance, Disability Living Allowance and Carer's Allowance in the UK.

26. Also excluded are:
    - Special Non-Contributory Benefits (SNCBs): these are generally taxpayer funded benefits. In the UK, this currently includes State Pension Credit, income-based JSA, income-related ESA, the mobility component of Disability Living Allowance and mobility component of Personal Independence Payment, as well as several Scottish benefits.
    - Payments to meet expenses for heating in the winter: In the UK, this currently includes Winter Fuel Payment.
    - Other categories including family benefits, social and medical assistance, benefits in relation to which a state assumes the liability for damages to persons and provides for compensation, and assisted conception services. There are no DWP benefits currently listed in any of these categories for the purposes of the Agreement.

27. Section 26 of the EU (Future Relationship) Act 2020 gives effect in domestic law to the SSC Protocol by providing that they form part of domestic (UK-wide) law. The Act also modifies domestic law as required in consequence of the implementation of the SSC Protocol or for the purposes of implementing the provisions set out in the SSC Protocol. The effect of these provisions is to treat existing domestic legislation as modified to give effect to the SSC Protocol, ensuring that individuals can rely on the provisions of the Protocol before domestic courts, tribunals and administrative authorities.

28. In terms of the governance of an agreement, both the EU and UK agreed that social security provisions would form part of a wider agreement with common governance mechanisms.

Preferred option: Summary of assessment of impact on business and other main affected groups.

29. DWP will provide an estimate of changes in DWP benefit expenditure resulting from the policy at a future fiscal event. However, as DWP treats any changes in benefit expenditure as transfer payments for economic appraisal purposes, changes in benefit payments are excluded from the overall estimate of net present social value.

30. HMT's Green Book states

[21] These benefits are no longer open to new claims under domestic law, except for Widowed Parent's Allowance, for which a new claim can be made only if an individual's husband, wife or civil partner died before 6 April 2017, the cause of death has just been confirmed and other eligibility conditions have been met. Claimants may not be able to export WPA if they are not entitled to receive UK Child Benefit in the EU.

"6.7 Transfers of resources between people (e.g. gifts, taxes, grants, subsidies or social security payments) should be excluded from the overall estimate of Net Present Social Value (NPSV). Transfers pass purchasing power from one person to another and do not involve the consumption of resources. Transfers benefit the recipient and are a cost to the donor and therefore do not make society as a whole better or worse off."[22]

As such DWP estimates zero impact on net present social value.

31. There is a well-established precedent for excluding transfer payments such as social security benefits from net present social value estimates when writing impact assessments for benefit expenditure changes. An example taken from the June 2018 Universal Credit Full Service Full Business Case, in which it states on transfer payments on page 27:

"Transfer Payments
Transfer payments pass purchasing power from one person/ entity to another and do not involve the consumption of resources. They include the transfer of resources between people such as gifts, taxes or social security payments and should be excluded from the overall estimate of social value. In the UC economic case, take-up, entitlement and sensitivity to changes in earnings are transfer payments while fraud and error are non-transfer payments"[23]

Business

32. This impact assessment is concerned with the payment of benefits and State Pensions. DWP estimates zero impact on business.

Individuals

33. There will be no changes in relation to the UK state pension for people moving between the UK and the EU from 1 January 2021. The rules in relation to the state pension entitlement, including aggregation of social security contributions and uprating in line with rates paid in the UK, will continue as now under the new rules.

34. There will also be no changes in the area of maternity, bereavement and industrial injuries benefits, nor to the rules which mean social security contributions (or, for some EU Member States, periods of work/residence) can be aggregated towards meeting the minimum qualifying period for contributory benefits (ESA-C, JSA-C and Maternity Allowance in the UK). These benefits can be claimed irrespective of nationality and recourse to public funds status. Rules for the aggregation and pro-rata calculation and payment of invalidity benefits have changed, as set out in paragraph 37 and 38.

35. There may be impacts on existing UK benefit claimants who, from 1 January 2021, move from the UK to the EU, EEA or Switzerland in future, or individuals who would have sought to claim some DWP benefits under the EU SSC Regulations having already moved to the EU, EEA or Switzerland and where the UK would have been the "competent state" under EU SSC Regulations. This is the case only where an individual is not covered by the Withdrawal Agreement (and associated agreements with the EEA and Switzerland).

[22]HMT Greenbook, Page 58, Chapter 6: Valuation of Costs and Benefits, 'Economic transfers', https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938046/The_Green_Book_2020.pdf
[23] "Universal Credit Programme full business case summary" https://www.gov.uk/government/publications/universal-credit-programme-full-business-case-summary/universal-credit-programme-full-business-case-summary

36. The following DWP benefits will no longer be payable when an individual moves permanently[24] to the EU, EEA or Switzerland unless an individual is covered by the Withdrawal Agreement:

- Personal Independence Payment (PIP)
- Disability Living Allowance (DLA) including Child DLA
- Attendance Allowance (AA)
- Carer's Allowance (CA)
- Winter Fuel Payment (WFP)[25]
- New Style Employment and Support Allowance or 'contributory' ESA (ESA-C)
- New Style Jobseekers Allowance or 'contribution-based' JSA (JSA-C)

37. Individuals who work in an EU Member State in the future and then return to the UK, will be able to rely on social security contributions made in EU Member States during relevant years to meet the minimum national insurance contributions required to receive certain categories of contributory benefits in the UK (subject to meeting other eligibility criteria). Individuals who work in the UK and then claim a benefit in an EU Member State will similarly be able to rely on UK periods of employment, self-employment, insurance or residence in order to qualify for a benefit in a Member State. However, aggregation rules for invalidity benefits no longer provide for pro-rata calculation and payment of invalidity benefits and individuals will receive invalidity benefits from one state only, where not covered by the Withdrawal Agreement. In respect of ESA-C as a pro-rata invalidity benefit, this is an entitlement which exists only under the EU's SSC Regulations.

38. This could affect the amount of invalidity benefits received by eligible claimants moving between the UK and EU as invalidity benefits will be paid by a single Member State, even if aggregation has been applied. For claimants in the UK, ESA-C will be paid at a flat (full) rate, and not on a pro-rata basis. Individuals moving to Member States where the rate of invalidity benefit payable is dependent on duration of periods of insurance, work or residence will not be able to rely on periods made in the UK in calculating their benefit amount, but will be able to rely on UK periods in order to meet any minimum qualifying period. Nonetheless, the provisions in the SSC Protocol in the UK-EU Trade and Cooperation Agreement do not preclude EU Member States from continuing to take such periods into account when calculating the rate of benefit payable, should they wish to do so.

39. At this point in time DWP is unable to accurately predict migration flows to EU member states, EEA states and Switzerland from the UK, as DWP cannot truly account for the impact that EU Exit will have on migration flow post-Transition Period. It is likely there will be reduced mobility in the short- to mid-term as a result of the ongoing Covid-19 pandemic.

40. However, to give context in 2019/20, there were around 28,000 inflows (starts) to DWP benefits paid to individuals resident in the EU, EEA or Switzerland, of which the majority (24,000, 85%) were for the State Pension and 4,000 (15%) were for other DWP benefit types. Of the 24,000 starts to the State Pension, it is estimated that 19,000 (80% of total State Pension inflows) were for UK or Irish nationals. Of the 4,000 starts to non-State Pension DWP benefits, it is estimated that just over 3,000 (almost 80% of total inflows) were for UK or Irish nationals. This is in addition to a total 38,000 payments made in winter 2019 to 2020 for recipients of the Winter Fuel Payment, of which 30,000 (78%) were made to individuals resident in Ireland.

[24] As set out at paragraph 11, temporary absence rules continue to apply. However, when an individual is permanently leaving the UK, entitlement ceases on the day of departure from the UK.
[25] Currently only payable in colder countries in the EU, EEA and Switzerland.

41. It should be noted that there will be new rules applied to UK nationals who move to the EU, EEA states and Switzerland in future within Member States' domestic immigration and residency systems. These rules will likely be an important consideration for UK nationals considering moving to the EU, EEA and Switzerland in future and are not covered in this impact assessment as they are outside of DWP and the UK Government's remit.

Equalities impact

42. DWP has conducted an Equalities Impact Assessment for the policy changes, based on latest administrative data held for demographics of current claimants in the EU/EEA/Switzerland as of May 2020, where available, and current migration patterns, while noting that the new policy affects those who are not already in a cross-border situation at the end of the transition period and the limitations in predicting future migration flows as set out at paragraph 39 above and the broader considerations for UK nationals considering a move overseas as set out at paragraph 41.

43. The SSC Protocol in the UK-EU Trade and Cooperation Agreement does not include any coordination of some benefits (including PIP, DLA, AA, CA and WFP) and the export of others (JSA-C and ESA-C), which will be stopped under regulations made under Section 6 of the ISSC Act. Those who have previously exercised their EU Freedom of Movement rights and remain in a cross-border situation are covered by the Withdrawal Agreement and those UK and Irish nationals moving to Ireland are covered by the UK-Ireland treaty.

44. The stopping of the export of disability benefits could have disadvantageous impacts on geographically mobile persons with disabilities and their carers, who otherwise fulfill individual Member State residence requirements, as will the stopping of JSA-C exports on working age persons who are unemployed, and who satisfy individual Member State residence requirements. Stopping the export of disability benefits also has a greater impact on older people: 36% of disability benefit claimants in the EU, EEA and Switzerland are aged 60 or over compared to 8% of non-disability benefit claimants, and compared to 0.2% of disability benefit claimants in the EU, EEA and Switzerland aged under 18 (i.e. Child DLA claims). Whereas the stopping of JSA-C is likely to have adverse impacts on working age men relative to women, as 55% of JSA-C recipients in the EU, EEA and Switzerland as of May 2020, are male.

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