

## 15-25: Border Security, Asylum and Immigration Act 2025

Contents	Paragraphs
Introduction	1-2
Section 45	3-6
Impact on decision making	7-9
Relevant benefits impacted	10
Annotations	
Contacts	

### Introduction

1. This memo provides guidance on the Border Security, Asylum and Immigration Act 2025<sup>1</sup> (BSAI Act), which came into force on 2.12.2025.

1 [\*Border Security, Asylum and Immigration Act 2025, ch 31\*](#)

2. This legislation confirms:

1. which European Union (EU) nationals are treated as having rights under the Withdrawal Agreement<sup>1</sup> (WA),
2. which European Economic Area (EEA) and Swiss nationals are treated as having rights under the relevant separation agreements<sup>2</sup>,
3. the family members treated as in scope of 2.1<sup>3</sup> and 2.2<sup>4</sup>.

1 [\*UK-EU Withdrawal Agreement\*](#) 2 [\*EEA EFTA separation agreement, Swiss Rights Agreement\*](#) 3 [\*UK-EU Withdrawal Agreement\*](#) 4 [\*EEA EFTA separation agreement, Swiss Rights Agreement\*](#)

### Section 45

3. Section 45<sup>1</sup> means that all EU other EEA and Swiss nationals who resided in the UK prior to the end of the transition period, and their family members, with leave to enter or remain in the UK granted under the EU Settlement Scheme (EUSS) will be treated as a beneficiary under the WA or the relevant separation agreement<sup>2</sup>.

1 [\*BSAI Act 2025\*](#) 2 [\*UK-EU Withdrawal Agreement, EEA EFTA separation agreement, Swiss Rights\*](#)

4. This includes individuals who were not within personal scope of that Agreement, because they were not residing in the UK in accordance with EU law immediately before the end of the transition period at 11pm on 31 December 2020.
5. Where a person has been granted EU Settlement Scheme (EUSS) status and can now access DWP benefits as a result of section 45 of the BSAI Act 2025<sup>1</sup>, the Home Office will have decided that the person meets the requirements of the EUSS. DWP are expected to rely on that decision for as long as the person continues to hold EUSS status.

[1 s.45 BSAI Act 2025](#)

6. The BSAI Act should be applied to any decision made on or after 02.12.2025.

### **Impact on decision making**

7. Once the act is in force, an assessment on whether a person is in scope of Article 10 WA (or equivalent) will no longer be required by DWP.

*1 DMG Volume 02, paragraphs 073496-073499*

8. In addition to the above, paragraphs 39-40 of the DMG Memo 26/20<sup>1</sup> should be disregarded and will no longer be considered the correct interpretation.

*1 26/20: Right to Reside – The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 – IS, JSA, ESA & SPC*

9. This change does not impact establishing BAU Habitual Residence Test requirements. An individual has to still demonstrate a qualifying right to reside at the date of claim to income-related benefits.

### **Relevant benefits impacted**

10. Section 45 will impact decision making in the following benefits:

- Universal Credit,
- Housing Benefit,
- State Pension Credit

### **Annotations**

The number of this memo should be annotated against the following paragraphs of the DMG – [073496](#), and DMG Memo [26/20](#).

## **Contacts**

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [7/19](#) Requesting case guidance from DMA Leeds for all benefits.