Draft Regulations laid before Parliament under paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. ***

EXITING THE EUROPEAN UNION

SOCIAL SECURITY

The Social Security (Amendment) (EU Exit) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State, in exercise of the powers conferred by sections 8(1) and 23(1) of the European Union (Withdrawal) Act 2018(**a**), makes the following Regulations.

In accordance with paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Amendment) (EU Exit) Regulations 2018.

(2) These Regulations come into force on exit day.

Social Security Contributions and Benefits Act 1992

2. In section 148 of the Social Security Contributions and Benefits Act 1992(**b**) (entitlement of pensioners to Christmas bonus), in subsection (1)(a), for "any other" substitute "a".

Social Security Administration Act 1992

3.—(1) The Social Security Administration Act 1992(**c**) is amended in accordance with this regulation.

(2) In section 73 (overlapping benefits – general), in subsection (5), for "member State other than the United Kingdom" substitute "member State".

(**a**) 2018 c. 16.
(**b**) 1992 c. 4, to which there are amendments not relevant to these Regulations.
(**c**) 1992 c. 5; section 73(5) was amended by section 254(1) of and paragraph 59 of Schedule 24 to the Civil Partnership Act 2004 (c. 33), and by section 1(3) and paragraph 21 of Schedule 1 and paragraph 1 of Schedule 2 to the Child Benefit Act 2005 (c. 6); section 80 was amended by section 1(3) of and paragraphs 19 and 22 of Schedule 1 to the Child Benefit Act 2005 (c. 6); section 179 was amended by the section 23 of and paragraph 25 of Schedule 12 to Pensions Act 2014 (c. 19) and there are other amendments that are not relevant to these Regulations.

(3) In section 74 (income support and other payments), in subsection (2)(a), for "other member State" substitute "member State".

(4) In section 80 (child benefit – overlap with benefits under legislation of other member States)—

(a) in the title, omit "other";

(b) in the section, for "member State other than the United Kingdom" substitute "member State".

(5) In section 179 (reciprocal agreements with countries outside the United Kingdom)—

(a) in subsection (1)—

(i) in paragraph (a), after "United Kingdom" insert "or an international organisation";

(ii) in paragraph (b), after "other government" insert "or international organisation";

(b) in subsection (3)—

(i) in paragraph (a)—

(aa) for "law of the country" substitute "law in force in the country";

(bb) after "agreement is made" insert "or has effect";

(ii) in paragraph (b), for "law of that country" substitute "law in force in that country";

(c) in subsection (4), after paragraph (aj) insert—

"(ak) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(al) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(am) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(an) Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;

(ao) Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018;";

(d) after subsection (5) insert—

"(6) In this section, "international organisation" means an organisation of which—

(a) two or more sovereign powers are members, or

(b) the governments of two or more sovereign powers are members.".

Amendments of secondary legislation

4. The Schedule contains amendments of secondary legislation.

Signed by authority of the Secretary of State for Work and Pensions

Name
Minister of State for Employment
Date Department for Work and Pensions

SCHEDULE

Regulation 4

Amendments of secondary legislation

Social Security Benefit (Persons Abroad) Regulations 1975

1.—(1) The Social Security Benefit (Persons Abroad) Regulations 1975(**a**) are amended in accordance with this paragraph.

(2) In regulation 10C (modification of Parts 2 and 3 of the Social Security Act 1975(**b**) in relation to accidents happening or prescribed diseases contracted outside of Great Britain)—

(a) in paragraph (1), in the definition of "prescribed area", omit "(other than the United Kingdom)";

(b) in paragraph (2)—

(i) in sub-paragraph (a), for "or a member State (including the United Kingdom)" substitute ", a member State or the United Kingdom";

(ii) in sub-paragraph (b), omit "(other than the United Kingdom)".

(3) In regulation 11 (modification of the Social Security Act 1975 in relation to employment on the Continental Shelf)—

(a) in paragraph (1), in the definition of "prescribed area", omit "(other than the United Kingdom)";

(b) in paragraph (1A)(b)(iv), for "or a member State (including the United Kingdom)" substitute ", a member State or the United Kingdom";

(c) in paragraph (2A)(d), for "or a member State (including the United Kingdom)" substitute ", a member State or the United Kingdom";

(d) in paragraph (2B), omit "(other than the United Kingdom)".

Social Security (Invalid Care Allowance) Regulations 1976

2.—(1) The Social Security (Invalid Care Allowance) Regulations 1976(**c**) are amended in accordance with this paragraph.

(2) In regulation 9B (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU regulation applies) —

(a) in the title, omit "other than the United Kingdom";

(b) in paragraph (a)(i), omit "other than the United Kingdom".

(**a**) S.I. 1975/563; relevant amending instruments are S.I. 1979/463, 1982/1738, 1996/207 and 2013/630.

(**b**) 1975 c. 14. Following the consolidation of the Social Security Act 1975, by virtue of section 2, section 3 and Schedule 1 of the Social Security (Consequential Provisions) Act 1992 c. 6, S.I. 1975/563 now has effect as if made under the Social Security Contributions and Benefits Act 1992 c.4. Section 50(5) of the Social Security Act 1975 has therefore been replaced by section 94(5) of the Social Security Contributions and Benefits Act 1992.

(**c**) S.I. 1976/409, amended by S.I. 2013/389; there are other amending instruments but none is relevant.

Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations 1982

3.—(1) The Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations 1982(**a**) are amended in accordance with this paragraph.

(2) In regulation 4 (continental shelf – interpretation), in the definition of "prescribed area", omit "(other than the United Kingdom)".

(3) In regulation 5 (persons in other member States – meaning of "employee")—

(a) in the title, omit "other";

(b) in paragraph (a), omit "other than the United Kingdom".

Statutory Maternity Pay (Persons Abroad and Mariners) Regulations 1987

4.—(1) The Statutory Maternity Pay (Persons Abroad and Mariners) Regulations 1987(**b**) are amended in accordance with this paragraph.

(2) In regulation 2 (persons in other member States – meaning of "employee")—

(a) in the title, omit "other";

(b) in paragraph (a), omit "other than the United Kingdom".

(3) In regulation 5 (women who worked in the European Union)—

(a) in paragraph (1)(b), for "another" substitute "a";

(b) in the words after paragraph (1)(b), omit "other".

(4) In regulation 8 (continental shelf), in paragraph (1), in the definition of "prescribed area", omit "(other than the United Kingdom)".

Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

5.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(**c**) are amended in accordance with this paragraph.

(2) In regulation 8 (duplication and prescribed payments), in paragraph (1)(g), omit "other than the United Kingdom".

(3) The amendment made by sub-paragraph (2) also has effect in relation to regulation 8 as that regulation relates to child benefit and guardian's allowance by virtue of the transitional provision in regulation 44 (recovery of overpayments from awards of child benefit and guardian's allowance) of the Child Benefit and Guardian's Allowance (Administration) Regulations 2003(**d**).

Social Security (Attendance Allowance) Regulations 1991

6.—(1) The Social Security (Attendance Allowance) Regulations 1991(**e**) are amended in accordance with this paragraph.

(2) In regulation 2B (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)—

(a) in the title, omit "other than the United Kingdom";

(b) in paragraph (a)(i), omit "other than the United Kingdom".

(**a**) S.I. 1982/1349, amended by S.I. 1982/1738; there are other amending instruments but none is relevant.
(**b**) S.I. 1987/418, amended by S.I. 1996/777 and 2011/1043.
(**c**) S.I. 1988/664 was revoked in relation to child benefit or guardian's allowance by S.I. 2003/492. Regulation 8(1) was amended by 2005/337; there are other amending instruments but none is relevant.
(**d**) S.I. 2003/492, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 1991/2740, amended by S.I. 2013/389; there are other amending instruments but none is relevant.

Social Security (Disability Living Allowance) Regulations 1991

7.—(1) The Social Security (Disability Living Allowance) Regulations 1991(**a**) are amended as follows.

(2) In regulation 2B (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)—

(a) in the title, omit "other than the United Kingdom";

(b) in paragraph (a)(i), omit "other than the United Kingdom".

Housing Benefit Regulations 2006

8.—(1) The Housing Benefit Regulations 2006(**b**) are amended in accordance with this paragraph.

(2) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in paragraph (18), in the definition of "prescribed area", omit "(other than the United Kingdom)".

(3) In regulation 105 (recovery of overpayments from prescribed benefits), in paragraph (1)(c), omit "other than the United Kingdom".

Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

9.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**c**) are amended in accordance with this paragraph.

(2) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in paragraph (18), in the definition of "prescribed area", omit "(other than the United Kingdom)".

(3) In regulation 86 (recovery of overpayments from prescribed benefits), in paragraph (1)(c), omit "other than the United Kingdom".

The Social Security (Personal Independence Payment) Regulations 2013

10.—(1) The Social Security (Personal Independence Payment) Regulations 2013(**d**) are amended in accordance with this paragraph.

(2) In regulation 23 (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU regulation applies)—

(a) in the title, omit "other than the United Kingdom";

(b) in paragraph (a)(i), omit "other than the United Kingdom".

The Universal Credit Regulations 2013

11. In regulation 11 (temporary absence from Great Britain) of the Universal Credit Regulations 2013(**e**), in paragraph (5), in the definition of "prescribed area", omit "(other than the United Kingdom)".

(**a**) S.I. 1991/2890, amended by S.I. 2013/389; there are other amending instruments but none is relevant.
(**b**) S.I. 2006/213, amended by S.I. 2005/2904 (as amended by S.I. 2006/217), and 2008/2824, 2016/624; there are other amending instruments but none is relevant.
(**c**) S.I. 2006/214, amended by S.I. 2005/2904 (as amended by S.I. 2006/217) and 2016/624; there are other amending instruments but none is relevant.
(**d**) S.I. 2013/377, to which there are amendments not relevant to these Regulations.
(**e**) S.I. 2013/376, to which there are amendments not relevant to these Regulations.

The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016

12. In regulation 5 (transitional provision) of the Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016(**a**), in paragraph (4), in the definition of "prescribed area" omit "(other than the United Kingdom)".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 8 and 25 of the European Union (Withdrawal) Act in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union and to make consequential provision.

These Regulations make amendments to domestic legislation in the field of social security to reflect that the United Kingdom will no longer be a Member State of the European Union and to amend section 179 of the Social Security Administration Act 1992 (c. 4) to allow for the implementation of reciprocal agreements with the European Union or individual Member States following the United Kingdom's exit from the European Union.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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