Draft Regulations laid before Parliament under paragraph 2(1) of Schedule 3 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. 000

EXITING THE EUROPEAN UNION

EXITING THE EUROPEAN UNION, NORTHERN IRELAND

SOCIAL SECURITY

SOCIAL SECURITY, NORTHERN IRELAND

TAX CREDITS

The Social Security Co-ordination (Revocation of Retained Direct EU Legislation and Related Amendments) (EU Exit) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State for Work and Pensions makes these Regulations in exercise of the powers conferred by section 6 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020(**a**).

In accordance with paragraph 2(1) of Schedule 3 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

(**a**) 2020 c. 20. The Secretary of State is an appropriate authority by virtue of subsection (7)(a). Under section 7, "modify" is defined for the purpose of the Act as including, inter alia, "amend" and "revoke".

PART 1

PRELIMINARY

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security Co-ordination (Revocation of Retained Direct EU Legislation and Related Amendments) (EU Exit) Regulations 2020.

(2) This regulation, paragraphs 1 to 4 of the Schedule and regulation 10 in so far as it relates to those paragraphs, come into force on the day after the day on which these Regulations are made.

(3) The remainder of these Regulations come into force on IP completion day.

Interpretation

2. In these Regulations—

"the Administration Act" means the Social Security Administration Act 1992(**a**);

"the Administration (Northern Ireland) Act" means the Social Security Administration (Northern Ireland) Act 1992(**b**);

"Regulation 883/2004" means Regulation (EC) No 883/2004 of the European Parliament and of the Council on the co-ordination of social security systems;

"Regulation 987/2009" means Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004;

"the revoked RDEUL" means the retained direct EU legislation revoked by regulation 3.

PART 2

REVOCATIONS

Revocation of retained direct EU legislation

3. Subject to Part 3, the following retained direct EU legislation is revoked—

(a) Regulation 883/2004;

(b) Regulation 987/2009;

(c) 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;

(d) Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71;

(e) Regulation (EC) No 859/2003 extending Regulation (EEC) No 1408/71 to nationals of non-EU Member Countries.

Revocation of instruments

4. The following instruments are revoked—

(a) the Social Security Coordination (Council Regulation (EEC) No 574/72) (Amendment) (EU Exit) Regulations 2019(**c**);

(**a**) 1992 c. 5.
(**b**) 1992 c. 8.
(**c**) S.I. 2019/721.

(b) the Social Security Coordination (Regulation (EC) No 883/2004, EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019(**a**);

(c) the Social Security Coordination (Regulation (EC) No 987/2009) (Amendment) (EU Exit) Regulations 2019(**b**);

(d) the Social Security Coordination (Council Regulation (EEC) No 1408/71 and Council Regulation (EC) No 859/2003) (Amendment) (EU Exit) Regulations 2019(**c**).

PART 3

SAVINGS

Savings

5.—(1) Notwithstanding regulation 3, the revoked RDEUL referred to in regulations 6 to 9 forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018(**d**) to the extent specified in those regulations.

(2) Notwithstanding regulation 4, the instruments revoked by that regulation continue to have effect for the purposes of regulation 9 to the extent specified in that regulation.

Benefits in kind

6. This regulation applies to the provisions of the revoked RDEUL in so far as they relate to the co-ordination of the provision of benefits in kind.

Debt recovery etc.

7.—(1) This regulation applies to the provisions of the revoked RDEUL specified in paragraph (2) for the purposes of giving effect to a reciprocal Order which allows for the recovery of any debt relating to social security contributions or family benefit specified in that Order.

(2) Those provisions are—

(a) in Regulation 883/2004, Article 84;

(b) in Regulation 987/2009, Chapter 3 of Title 4.

(3) In paragraph (1), "reciprocal Order" means an Order in Council made under section 179 of the Administration Act or an Order made under section 155 of the Administration (Northern Ireland) Act.

Gibraltar

8.—(1) This regulation applies to those parts of the revoked RDEUL which are necessary to give effect to the Exchange of Letters between the Governments of the United Kingdom and Gibraltar on the co-ordination of social security between the United Kingdom and Gibraltar.

(2) The Exchange of Letters referred to in paragraph (1) is contained in—

(a) as regards Great Britain, the Schedule to the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order 1974(**e**); and

(b) as regards Northern Ireland, the Schedule to the Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order (Northern Ireland) 1974(**f**).

(**a**) S.I. 2019/722.
(**b**) S.I. 2019/723.
(**c**) S.I. 2019/726.
(**d**) 2018 c. 16.
(**e**) S.I. 1974/555.
(**f**) S.R. 1974 No. 153.

State pension

9.—(1) This regulation applies to the provisions of the revoked RDEUL and the instruments revoked by regulation 4 in so far as they relate to the up-rating of state pension and the aggregation of relevant periods for the purpose of granting state pension.

(2) In paragraph (1), "state pension" means state pension under—

(a) the Social Security Contributions and Benefits Act 1992(**a**);

(b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**);

(c) the Pensions Act 2014(**c**); and

(d) the Pensions Act (Northern Ireland) 2015(**d**).

PART 4

AMENDMENTS

Amendments

10. The Schedule (which makes amendments related to the revocations in regulations 3 and 4) has effect.

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

Name
Minister of State
Date Department for Work and Pensions

SCHEDULE

Regulation 10

AMENDMENTS

PART 1

AMENDMENTS TO PRIMARY LEGISLATION

Amendments to the Administration Act

1.—(1) Section 179 of the Administration Act(**e**) is amended as follows.

(2) In subsection (1)—

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

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

(3) In subsection (3)—

(a) in paragraph (a)—

(**a**) 1992 c. 4.
(**b**) 1992 c. 7.
(**c**) 2014 c. 19.
(**d**) 2015 c. 5.
(**e**) Section 179 was amended by section 23 of, and paragraph 25 of Schedule 12 to, the Pensions Act 2014 and there are other amendments that are not relevant to these Regulations.

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

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

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

(4) In subsection (4), after paragraph (aj) insert—

"(ak) to 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) to 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) to 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) to 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) to 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.".

(5) 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 to the Administration (Northern Ireland) Act

2.—(1) Section 155 of the Administration (Northern Ireland) Act(**a**) is amended as follows.

(2) In subsection (1)—

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

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

(3) In subsection (3)—

(a) in paragraph (a)—

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

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

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

(4) In subsection (4), after paragraph (ah) insert—

"(ai) to 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;

(**a**) Section 155 was amended by section 30(5) of, and paragraph 31(3) of Schedule 16 to, the Pensions Act (Northern Ireland) 2015 and there are other amendments that are not relevant to these Regulations.

(aj) to 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;

(ak) to 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;

(al) to 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;

(am) to 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.".

(5) 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.".

PART 2

AMENDMENTS TO SUBORDINATE LEGISLATION

Amendment to the Social Security (Amendment) (EU Exit) Regulations 2019

3. Omit regulation 3(5) of the Social Security (Amendment) (EU Exit) Regulations 2019(**a**).

Amendment to the Social Security (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

4. Omit regulation 3(5) of the Social Security (Amendment) (Northern Ireland) (EU Exit) Regulations 2019(**b**).

Amendments to the Social Security Coordination (Reciprocal Healthcare) (Amendment etc.) (EU Exit) Regulations 2019

5. In the Social Security Coordination (Reciprocal Healthcare) (Amendment etc.) (EU Exit) Regulations 2019(**c**)—

(a) omit regulation 10;

(b) in regulation 16(c), omit the words from ", so far as not omitted" to the end.

(**a**) S.I. 2019/128.
(**b**) S.I. 2019/129.
(**c**) S.I. 2019/776.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 6 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20).

Part 2 (regulations 3 and 4) makes revocations. Regulation 3 revokes certain retained direct EU legislation; namely Regulation (EC) No 883/2004 of the European Parliament and of the Council on the co-ordination of social security systems, Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004, 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 and Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408 and Regulation (EC) No 859/2003 extending Regulation (EEC) No 1408/71 to nationals of non-EU Member Countries. Those Regulations relate to the co-ordination of social security systems throughout the EU.

Regulation 4 revokes certain subordinate legislation; namely the Social Security Coordination (Council Regulation (EEC) No 574/72) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/721), the Social Security Coordination (Regulation (EC) No 883/2004, EEA Agreement and Swiss Agreement) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/722), the Social Security Coordination (Regulation (EC) No 987/2009) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/723) and the Social Security Coordination (Council Regulation (EEC) No 1408/71 and Council Regulation (EC) No 859/2003) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/726). All of those Regulations were made under the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) amending the retained direct EU legislation revoked by regulation 3.

Part 3 (regulations 5 to 9) makes specific savings from the revocations in regulations 3 and 4. Regulation 6 saves provisions relating to the coordination of the provision of benefits in kind. Regulation 7 saves provisions necessary to give effect to the debt recovery, insolvency and recognition and enforcement of judgment provisions provided for in the 2019 Convention on Social Security between the Governments of the UK and Ireland(**a**) and which may be needed to give effect to corresponding provisions of any future social security reciprocal agreements. The debt to which this is to relate is that relating to national insurance contributions and family benefits. Regulation 8 saves provisions necessary to give effect to the Exchange of Letters on the co-ordination of social security between the United Kingdom and Gibraltar. Regulation 9 saves provisions necessary to give effect to uprating and aggregation of state pension.

Part 4 (regulation 10) and the Schedule make amendments to primary legislation and subordinate legislation which relate to the revocations in regulations 3 and 4.

This instrument does not impose any costs on business, charities or the voluntary sector. A Tax Information and Impact Note has not been prepared for this instrument as it revokes applicable legislation rules which are not regulatory in nature.

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(**a**) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778087/CS_Ireland_1.2019_Soc_Sec.pdf

£6.90

UK202011131014 11/2020 19585

http://www.legislation.gov.uk/id/ukdsi/2020/9780348215359

ISBN 978-0-34-821535-9

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