EXPLANATORY MEMORANDUM TO

THE RETAINED EU LAW (REVOCATION AND REFORM) ACT 2023 (SOCIAL SECURITY CO-ORDINATION) (COMPATIBILITY) REGULATIONS 2025

2025 No. 580

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 James Murray MP, Exchequer Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Gareth Cooper, Deputy Director for National Insurance Policy, International and Student Finance, at HMRC, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Nicholas Faulkner at HMRC, telephone: 0300 050 7675 or email: nicholas.faulkner@hmrc.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument ensures that the UK can continue to meet its debt recovery obligations in our Social Security Agreements (SSAs) with other countries by restoring the priority of the assimilated law provisions on social security debt recovery over the specified debt recovery and insolvency laws.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the entire United Kingdom.

5. Policy Context

What is being done and why?

5.1 SSAs ensure that cross-border workers, and their employers if they have one, are only liable to pay social security contributions (National Insurance in the UK) in one state at a time. They often also ensure that individuals in cross-border situations maintain access to specified social security benefits, including reciprocal healthcare cover. Since leaving the EU, the UK has entered into new SSAs with the European Economic Area - European Free Trade Association states (Iceland, Liechtenstein and

Norway), Gibraltar and Switzerland. The UK has also entered into a SSA with Ireland.

5.2 These SSAs provide for social security debts, such as unpaid social security contributions or overpaid social security benefits, due to one state to be collected in the other state on the same terms as debts owed to that latter state. In particular, these SSAs require each state to treat social security debts owed to the other state on the same terms as a domestic social security debt during enforcement, bankruptcy or settlement proceedings. For example, if the Norwegian authorities requested the UK's assistance in collecting unpaid Norwegian social security contributions from an insolvent UK company, the UK would need to treat that Norwegian debt on the same terms as an unpaid National Insurance contributions debt.

5.3 Most SSAs are given legal effect in the UK through Orders in Council made under section 179 of the Social Security Administration Act 1992 and Northern Ireland Orders made under section 155 of the Social Security Administration (Northern Ireland) Act 1992. Section 179 and section 155 provide the power for certain listed legislation to be modified, to the extent required, to give effect to the provisions of the SSAs.

5.4 Certain debt recovery and insolvency laws are not listed within section 179 of the Social Security Administration Act 1992 or section 155 of the Social Security Administration (Northern Ireland) Act 1992 and so the Orders in Council and Northern Ireland Orders cannot provide for their modification to give effect to debt recovery provisions in the UK's SSAs.

5.5 This instrument maintains the existing policy position by ensuring that the specified debt recovery and insolvency laws will be read and given effect in a way that is consistent with the debt recovery provisions in the UK's SSAs and will ensure similar consistency in the future should the UK negotiate further SSAs containing reciprocal debt recovery commitments.

5.6 This instrument does not affect the UK's social security coordination arrangements with the EU as these are incorporated into UK law through section 7A of the European Union (Withdrawal) Act 2018 and section 26 of the European Union (Future Relationship) Act 2020.

What was the previous policy, how is this different?

5.7 Social security debt recovery provisions in SSAs are designed to ensure that social security debts can be collected efficiently in different jurisdictions. They are a long-standing feature of the UK's social security coordination relationship with the EU, Gibraltar, Iceland, Norway, Liechtenstein and Switzerland. As reciprocal provisions they are equally binding on all countries that are a party to a particular SSA.

5.8 In 2020 the previous Government saved provisions of EU-derived legislation forming retained EU law relating to the collection of social security debts.[1] This was done to maintain existing policy and ensured that the UK could continue to implement the debt recovery provisions contained within certain SSAs.

5.9 At the end of 2023 the saved retained EU law became assimilated law and domestic laws no longer had to be read and given effect in conformity with the assimilated law.

[1] The Social Security Co-ordination (Revocation of Retained Direct EU Legislation and Related Amendments) (EU Exit) Regulations 2020, Regulation 7: https://www.legislation.gov.uk/uksi/2020/1508/regulation/7/made

As a result, our domestic laws could not be amended to give effect to the debt recovery provisions in SSAs.

5.10 While this has not, thus far, had any practical impacts in relation to the recovery of social security debts, we may be unable to recover such debts if required to do so.

5.11 This instrument maintains the existing policy position by ensuring that the listed domestic debt recovery and insolvency laws are to be read and given effect, to the extent required, in a way which is consistent with the debt recovery provisions of the UK's recent SSAs.

6. Legislative and Legal Context

How has the law changed?

6.1 Regulation 2 of this instrument uses the power conferred at section 7(1) of the Retained EU Law (Revocation and Reform) Act 2023 (REUL Act) to provide that the specified domestic debt recovery and insolvency laws are to be read and given effect in a way which is compatible with the debt recovery provisions of the listed assimilated direct legislation. This resets the legislative position back to that prior to the end of 2023. This is the first use of the power conferred at section 7(1) of the REUL Act.

Why was this approach taken to change the law?

6.2 Amendments to the primary power contained in section 179 Social Security Administration Act 1992 and section 155 Social Security Administration (Northern Ireland) Act 1992, and to the Orders in Council and Northern Ireland Orders giving legal effect to the SSAs would have achieved the same result. However, bringing forward primary legislation to maintain existing policy on recovery of social security debts to give effect to unchanged international debt recovery obligations is not considered to be an effective use of parliamentary time.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation has not been conducted as this instrument maintains the existing policy in respect of the recovery of overseas social security debts as provided for in SSAs.

8. Applicable Guidance

8.1 New guidance is not required as there is no change in policy as a result of this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it resets the legislative position back to that prevailing prior to the end of 2023 and maintains the UK's existing policy position.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies for the reasons provided in 9.1.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to formally monitor the impact of this legislation as it does not represent a change in policy.

10.2 As this instrument is made under the relevant European Union Acts (as defined at 13.1), no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is made under section 7(1) of the REUL Act 2023 and therefore relates to the reform of assimilated law.