STATUTORY INSTRUMENTS

2021 No. 811

EXITING THE EUROPEAN UNION

SOCIAL SECURITY

The Social Security (Reciprocal Agreements) (Miscellaneous Amendments) (EU Exit) Regulations 2021

Sift requirements satisfied	*15th June 2021*
Made - - - -	*6th July 2021*
Laid before Parliament	*9th July 2021*
Coming into force in accordance with regulation 1	

The Secretary of State, in exercise of the powers conferred by section 8(1) and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018(**a**) makes the following regulations.

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Reciprocal Agreements) (Miscellaneous Amendments) (EU Exit) Regulations 2021.

(2) This regulation and regulations 3, 5, 6 and 7 come into force on the 22nd day after the day on which these Regulations are laid.

(3) Regulation 2 comes into force on 20th September 2021.

(4) Regulation 4 comes into force on 31st December 2021.

(5) Regulations 2, 3 and 4 extend to England and Wales and Scotland.

(6) Regulations 5, 6 and 7 extend to England and Wales, Scotland and Northern Ireland.

The Social Fund Winter Fuel Payment Regulations 2000

2.—(1) The Social Fund Winter Fuel Payment Regulations 2000(**b**) are amended as follows.

(2) In regulation 2—

(a) substitute paragraph (4)(a) with—

(**a**) 2018 c. 16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Paragraph 21 of Schedule 7 was amended by paragraph 53(2) of Schedule 5 of the European Union (Withdrawal Agreement) Act 2020.

(**b**) S.I. 2000/729. Regulation 2(4)(a) was inserted by 2003/1737 and amended by 2013/1509, 2015/67, 2018/1084. There are other amending instruments but none is relevant.

"(a) they are a person who is covered by—

(i) Title III of Part 2 of the withdrawal agreement as set out at Article 30 of that agreement;

(ii) Title III of Part 2 of the EEA EFTA separation agreement as set out at Article 29 of that agreement;

(iii) Part Three of the Swiss citizens' rights agreement as set out at Article 25 of that agreement; or

(iv) the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland signed at Dublin on 1st February 2019 (as modified from time to time in accordance with any provision of it) as set out in Article 2 of that Convention; and";

(b) after paragraph (4) insert—

"(5) In this regulation "withdrawal agreement", "EEA EFTA separation agreement" and "Swiss citizens' rights agreement" have the same meanings as in section 39(1) of the European Union (Withdrawal Agreement) Act 2020(**a**).".

Amendments to the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations 2015

3.—(1) The Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations 2015 are amended as follows.

(2) Substitute regulation 1(3)(a) with—

"(a) "withdrawal agreement", "EEA EFTA separation agreement" and "Swiss citizens' rights agreement" have the same meanings as in section 39(1) of the European Union (Withdrawal Agreement) Act 2020;

(aa) "Trade and Cooperation Agreement" has the same meaning as in section 37(1) of the European Union (Future Relationship) Act 2020(**b**);"

(3) In regulation 2(a), before "an EEA" add "a UK or";

(4) Substitute regulation 2(d) with—

"(d) that person is covered by—

(i) Title III of Part 2 of the withdrawal agreement as set out at Article 30 and 32 of that agreement;

(ii) Title III of Part 2 of the EEA EFTA separation agreement as set out at Article 29 and 31 of that agreement;

(iii) Part Three of the Swiss citizens' rights agreement as set out at Article 25 and 26a of that agreement;

(iv) the Protocol on Social Security Coordination in the Trade and Cooperation Agreement as set out at Article SSC.2 of Title 1 of that agreement.".

Revocation of the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations 2015

4.—(1) Subject to paragraph 2, the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations 2015(**c**) are revoked.

(**a**) 2020 c. 1.
(**b**) 2020 c. 29.
(**c**) S.I. 2015/349.

(2) Notwithstanding paragraph 1, the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations 2015 continue to apply to nationals of the UK, an EEA state or Switzerland if they—

(a) are habitually resident in an EEA state or Switzerland on 31st December 2021; and

(b) remain habitually resident in that same state after 31st December 2021.

The European Network of Employment Services (EU Exit) Regulations 2018

5.—(1) The European Network of Employment Services (EU Exit) Regulations 2018(**a**) are amended as follows.

(2) Omit regulation 3 (transitional and consequential provisions on the revocation of retained EU instruments).

The Transfer of State Pensions and Benefits Regulations 2007

6.—(1) The Transfer of State Pensions and Benefits Regulations 2007(**b**) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), omit paragraph (2A).

Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission

7. Articles 11 and 12 of Annex VIII to the Staff Regulations of Officials of the European Union, and articles 39, 109 and 135 of the Conditions of Employment of Other Servants of the European Union, in Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission, to the extent these articles form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018(**c**), are omitted.

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

Justin Tomlinson
Minister of State
Department for Work and Pensions

6th July 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under paragraphs (a), (c), (d), (e) and (g) of section 8(2)) which apply to this instrument arising from the withdrawal of the United Kingdom from the European Union.

Regulation 2 amends the Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729) to provide that winter fuel payments shall only be paid to persons habitually resident in the countries listed in the Schedule to those Regulations if they are covered by the coordination of social security provisions in the withdrawal agreement, the EEA EFTA separation agreement or the

(**a**) S.I. 2018/1283.
(**b**) S.I. 2007/1398. Paragraph (2A) was inserted by S.I. 2010/1825. There are other amendments not relevant to these Regulations.
(**c**) Section 3 was amended by section 25 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

Swiss citizens' rights agreement or by the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland signed at Dublin on 1st February 2019.

Regulation 3 amends regulation 2 of the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations 2015 (S.I. 2015/349) ("the 2015 Regulations").

Regulation 4 revokes the 2015 Regulations from 31st December 2021 with a savings provision for UK, EEA and Swiss nationals who are habitually resident in the EEA or Switzerland on 31st December 2021.

Regulation 5 revokes regulation 3 of the European Network of Employment Services (EU Exit) Regulations 2018 (S.I. 2018/1283), which is a discretionary power for the Secretary of State to give financial assistance to a person who had a grant agreement under the Employment and Social Innovation fund.

Regulation 6 amends the Transfer of State Pensions and Benefits Regulations 2007 (S.I. 2007/1398) to omit the ambulatory provision contained at regulation 1(2A).

Regulation 7 omits the transfer of benefits articles from the version of EU Council Regulation No 259/68 that now forms part of UK domestic law pursuant to section 3 of the European Union (Withdrawal) Act 2018.

An impact assessment has not been produced for this instrument as it has no impact on business and civil society organisations. This instrument has no impact on the public sector.

© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.90

http://www.legislation.gov.uk/id/uksi/2021/811

ISBN 978-0-34-822568-6

9 780348 225686