



Technical Notice (16)

Getting ready for the end of the Transition Period

Social Security Coordination

2 December 2020

On 31 December 2020, the Transition Period (sometimes also referred to as the “Implementation Period”) under the EU-UK Withdrawal Agreement will come to an end. The end of the Transition Period will bring an end to the current status quo whereby Gibraltar, its citizens and its business, have enjoyed EU rights. Therefore, subject to the outcome of ongoing negotiations concerning the UK and Gibraltar’s future relationship with the EU, the end of the Transition Period will bring about important changes which Gibraltar, as a whole, will need to be ready for.

Purpose.

Gibraltar’s departure from the European Union means that certain processes and procedures will inevitably become more difficult, cumbersome and bureaucratic. It is important that citizens and businesses are aware of this and that, where possible, they plan ahead. The Government can only prepare in areas that are within its control. Even then, there will be certain areas where mitigation is not possible because the new situation simply reflects what it means to be outside the European Union.

The purpose of this Notice is to explain what the effect of those changes are on the arrangements which Gibraltar has with the United Kingdom, the EU, the EEA and Switzerland on matters related to social security coordination.



If there is no agreement with respect to the UK and Gibraltar's future relationship with the EU by 31 December 2020, the following will apply:

Position vis-à-vis Gibraltar and the UK

Pursuant to an understanding reached between Gibraltar and the UK in 1973, EU social security legislation has applied between the UK and Gibraltar as if each were a separate EU Member State. Notwithstanding that EU social security legislation will no longer be directly applicable in the UK and Gibraltar after 31 December 2020, the UK and Gibraltar have agreed to enact domestic legislation to preserve status quo, on the basis of current EU legislation, as between the UK and Gibraltar. Consequentially, even in a scenario where there is no agreement on the future relationship with the EU, the arrangements between the UK and Gibraltar will not change after 31 December 2020. In future, the UK and Gibraltar may look to re-configure their arrangements on social security coordination so that they are “free-standing” and no longer underpinned by EU legislation.

Position vis-à-vis Gibraltar and the EU Member States

EU citizens who come within the personal scope of the EU-UK Withdrawal Agreement will have their EU rights in Gibraltar preserved beyond 31 December 2020. The same applies to UK nationals (including British Gibraltarians) who are currently exercising EU rights in EU Member States. This will be the case even if there is no agreement with respect to the UK and Gibraltar's future relationship with the EU.

However, with respect to EU citizens who are not covered by the EU-UK Withdrawal Agreement, such as those who may seek to work in Gibraltar for the first time after 31 December 2020 or those who may seek to reside in Gibraltar after 31 December 2020, Gibraltar will (like the UK) be proceeding to disapply retained EU social security legislation so that it no longer applies to such persons as from 1 January 2021.

Therefore, as from 1 January 2021, and subject to the application to Gibraltar of any future agreement between the UK and the EU on these matters, the social security



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status of EU citizens who are not covered by the EU-UK Withdrawal Agreement will be determined by either (i) the terms of any arrangements of which Gibraltar forms part and which may be agreed with individual EU Member States in future; or (ii) Gibraltar domestic legislation. The Government will continue to develop its policy in this area, amending legislation where necessary, to take into account the level of reciprocity guaranteed by individual EU Member States.

Separately, UK nationals (including British Gibraltarians), who are not covered by the EU-UK Withdrawal Agreement and who intend to establish social security rights in EU Member States after 31 December 2020, would be advised to check what their position would be in the individual EU Member State in which they intend to live or work in future.

Position vis-à-vis Gibraltar and the EEA States (Norway, Iceland, Liechtenstein) and Switzerland

Given the terms of the EEA EFTA Separation Agreement and the Swiss Citizens' Rights Agreement, the guidance outlined in the preceding section of this Technical Notice applies equally to nationals of Norway, Iceland, Liechtenstein and Switzerland in Gibraltar and to UK nationals (including British Gibraltarians) in those countries.

If there is an agreement with respect to the UK and Gibraltar's future relationship with the EU by 31 December 2020.

Negotiations with respect to the UK and Gibraltar's future relationship with the EU are ongoing. Should an agreement be reached, it is possible that this agreement would cover social security coordination and the arrangements described above may change.

Further information

This Notice is meant for guidance only.

Further information can be sought from brexit@gibraltar.gov.gi.