



## Post-transition period, will EU social security regulations apply?

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Currently and until the transition period ends by 31.12.2020, the UK is subject to *Regulation 883/2004* on coordination of social security systems (R883/2004), but what will happen after the transition period is over?

R883/2004 provides fundamental protection for individuals exercising their EU right of free movement. The Regulation, in its third article lists the applicable branches of social security legislation, which include, amongst others, sickness, invalidity, maternity and paternity, unemployment and retirement benefits.

In its following articles, the Regulation sets out the following principles:

- ✓ Individuals (and in the case of employees, their employers) are subject to the laws of and pay social security contributions in one-member state only. Thereby avoiding possible dual social security liabilities and dual compliance burdens.
- ✓ Individuals are entitled to equal treatment. This means that those to whom the Regulation applies shall enjoy the same benefits and be subject to the same obligations under the legislation of any Member State as the nationals thereof.
- ✓ All periods of insurance, work or residence are taken into account to calculate an individual's benefits. Thus, avoiding gaps in social security record.

The Regulation must be taken into consideration by employees, but also by employers as it might result in significant cost savings and reduction in compliance burdens. As, for example, can be shown by an employer benefitting from the UK's low social security contribution rates (when compared to other EU member states) while sending their employees on short-term assignments, less than two years, to a host EU member state and continue making contributions to the UK social security system.

During the transition period, the Regulations continue to apply. After the transition period, there are three possible alternatives:

- (a.) The EU & UK agree to continue to apply the substance of R883/2004, under a scenario of continuation of social security co-ordination.
- (b.) The UK applies (and negotiates where do not currently exist) bilateral social security agreements with the 27 remaining EU member states. This translates to heterogeneous agreements with difficulties for practical and effective application.
- (c.) Domestic legislation applies. Clause 5 of the *Immigration and Social Security Co-ordination (EU Withdrawal) Bill* gives the government power to make substantive policy changes to the retained EU social security rules.

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## The Brexit Law

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