

Social security after Brexit: coordination protocol with United Kingdom 1/8/21



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The United Kingdom (“UK”) left the EU at midnight on 31 January 2020. The Brexit agreement provided that EU nationals staying in the UK until the end of the transition period would keep the social rights that go with EU citizen status, i.e. the opportunity to apply for various benefits, pensions and other social entitlements in the UK, similar to living in other member states. The Trade and Cooperation Agreement signed on 30 December 2020 is applied provisionally from 1 January 2021 pending ratification at EU level. The Agreement includes a separate protocol on social security coordination. This article explores some key changes in social security to be considered by employers after Brexit and in the light of the new agreement.

Being subject to a social security system

The protocol is based on the core principles of EU Regulation No. 883/2004, under which an individual is subject to a social security system only in one country, i.e. where they are actually employed.

Individuals that work in two or more countries and pursue a substantial part of their activity (at least 25%) in their residence country, are subject to the social security system of their residence country. If the “substantial part” condition is not met, then social security should be applied where the employer is incorporated.

Worker postings and the A1 certificate

The protocol provides that A1 certificate extensions can be awarded under the EU Regulation as before to individuals that enjoyed free movement before 31 December 2020 if they continue their employment relationships without secondment interruptions, by requesting a certificate for up to two years.

Thus, once the transition period expires, an individual being temporarily posted by a Latvian employer to work in a UK group company could remain subject to Latvian social security legislation if the posting does not exceed 24 months and the person is not replacing another employee. There is currently no guidance as to whether and how the 2-year period can be extended if need be, similarly to the EU Regulation.

It is important to note that the protocol makes it optional for member states to apply these rules on worker postings, so each member state should consent to applying the rules. If this is not done by 1 February 2021, contributions will have to be paid under the general principle, i.e. in the destination country where work is actually done.

According to publicly available information, all 27 member states have opted to apply the rules. We have received confirmation from the National Social Insurance Agency that Latvia, too, will allow these rules to be applied on worker postings to and from the UK. This will help employees continue the current practice of paying national social insurance contributions in their home country after obtaining an A1 certificate. It

is also important to note that workers being posted to the UK after the transition period expires will have to obtain a visa and go through other entry-related formalities.

Filing the annual income tax return

Employment remuneration received in the UK is still considered non-taxable income in Latvia if it has been charged to personal income tax or a similar tax in the UK. However, Latvian residents working and living in the UK after Brexit are liable to file the annual income tax return and report any non-taxable employment income they receive.