

## THE GUIDANCE NOTE

### *Part 3 - Social Security coordination: Benefits, Pensions and Health Care*

#### Introduction

In May 2020 the European Commission published a [Guidance Note](#) to the citizens' rights chapter of the Withdrawal Agreement (WA) prepared by its staff, which will be used by the national authorities in all EU countries and the UK to help make sure that the citizens' rights provisions of the WA are correctly implemented. The Guidance Note puts some of the flesh on the bones of the WA, explaining what it may and may not cover, and much of what it has to say is useful for all of us as we prepare for the post-transition period.

This is the third of 3 British in Europe information articles designed to help you understand the most important clarifications in the Guidance Note and how they may affect you. In this article we cover social security coordination: benefits, pensions and health care.

The first article covered residence rights and procedures.

The second article covered family members, future family reunification and dual nationals.

You can read them both [here](#).



# About British in Europe

**British in Europe** is a coalition of grassroots citizens' organisations and the largest grouping of UK citizens in the EU. It was founded in early 2017 to give UK citizens living, working and studying across the EU a voice in the Brexit negotiations.

We are the organisation of reference **on citizens' rights for UK nationals in the EU**. Since 2017 we have been recognised by the British government, the European Commission, the Council and the European Parliament as trusted interlocutors, meeting secretaries of state, ministers in member states and key EU and British officials. Our ten-person **Steering Team** has campaigned jointly with **the3million**, which represents EU27 citizens in the UK. Together, we have pressed to keep our existing rights and to prevent Brexit from destroying the lives and families we have created whilst exercising those rights.

**For our advocacy**, we have produced dossiers highlighting **the human and legal cost of Brexit** for the 1.2 million UK citizens in the EU. We have given evidence at the European Parliament, Westminster and national and regional parliaments around the EU. With the3million, we have explained our plight to senior politicians such as Michel Barnier and Stephen Barclay, as well as Brexit coordinators and MEPs from all the main political groups in the European Parliament. We have provided expert analysis across the media and built up a strong social media presence to show how losing our rights will affect our everyday lives.

## WHAT WE HAVE ACHIEVED SO FAR:

### *The Withdrawal Agreement*

Working with the3million, British in Europe ensured that citizens' rights was the top priority in negotiations. We had a major impact on the citizens' rights chapter, feeding into each round of negotiations. We highlighted areas such as **dual national rights** and the need for **clarity on healthcare and social security**. We persuaded both sides to extend the **right of absence** for permanent residents from two to five years. We widened the initial focus of negotiators to ensure that issues affecting **UK nationals of working age** and particularly **young people** were prioritised.

### *Implementation of the Withdrawal Agreement*

The advocacy of BiE country groups has affected member states' decisions to choose between **declaratory and constitutive systems** to secure our rights. For example, we believe that **British in Germany's** campaign for a declaratory system has had a clear impact given the recently published draft legislation proposing that option.

### *UK Government Issues*

We obtained a commitment that UK nationals in the EU27 wishing to study in Britain will be entitled to pay **home university fees instead of** expensive international fees for seven years from the end of the transition period. We also obtained **a grace period** until 2022 for British citizens returning to the UK with non-British family members without having to meet the requirements of normally applicable UK immigration law.

### *Information*

BiE has provided **clear and accurate information on citizens' rights** for the UK nationals we represent. To governments and the media, we have supplied expert analysis with a strong legal basis on complex issues such as working rights, professional qualifications, pensions, healthcare and mobile citizens.

**BRITISH IN EUROPE RECEIVES NO FINANCIAL SUPPORT FROM THE UK GOVERNMENT OR EU ORGANISATIONS. PLEASE HELP FUND OUR ONGOING ACTIVITY THROUGH A REGULAR DONATION. FULL DETAILS ARE ON OUR WEBSITE:**

**[www.britishineurope.org](http://www.britishineurope.org)**

## What's covered in this article?

1. What is social security coordination, what does it cover and why does it matter to me?
2. How does the WA cover social security coordination and who does it cover?
3. About Article 30 of the WA: those for whom all current coordination rules continue to apply. This section is relevant for you if you are resident in your host country at the end of the transition period (and also for some others) so is important reading for everyone.
4. About Article 32 of the WA: those who are not, or are no longer, covered by Article 30 but for whom some coordination rules continue to apply (or will apply in future) due to particular circumstances.
5. Those who are completely outside the scope of Title III of the WA and who therefore don't benefit from social security coordination between the UK and the EU under the WA.

**Important note:** Social security coordination rules and how these are covered by the WA in specific situations can be very complex, mainly because there are so many individual permutations and different situations. In this guide we focus primarily on UK nationals who at the end of transition are resident in an EU country. We don't and can't attempt to cover each and every situation, and the guide should therefore not be read as exhaustive; rather, it's a guide to those aspects of social security and health care which are covered under the WA that the vast majority of UK nationals living in the EU need to know about and understand.

If you are in a different or more complex situation than those described here, or you are not a UK national, we strongly suggest that

- (a) you study the Guidance Note, which gives many examples, yourself; and
- (b) if necessary, you seek independent professional advice.

You can find the Guidance Note [here](#).

## 1. WHAT IS SOCIAL SECURITY COORDINATION, WHAT DOES IT COVER AND WHY DOES IT MATTER TO ME?

Social security coordination may seem highly technical, but it concerns all of us who've used our free movement rights to work, study or live in another EU member state. In a nutshell, it's about how our social security rights go with us as we move.

We know that it's a bit of a grey area for many people, so before we start to look at what the WA and the Guidance Note say, we begin with a very brief outline of what the coordination provisions are all about to help you make better sense of what's to come.

### ***A. Why do we need social security coordination?***

The EU coordination provisions don't aim to replace national social security systems - they provide for their coordination, to make sure that a person who has exercised the right to move within the EU doesn't find themselves in a worse position than a person who has always lived and worked in one single member state. So the coordination rules deal with issues such as:

- What happens to my pension rights if I've worked in more than one EU country?
- Who pays my hospital bill in the case of an accident or sickness during a stay in another EU country?
- Which country is responsible for paying for my health care or my unemployment benefit if I'm a frontier worker?
- How is my health care funded if I receive a state pension from a country I don't now live in?
- Will my UK state pension still be uprated if I live in another EU country?
- Which country should pay my family benefits if my children reside in another member state than the one in which I work?
- Can I export benefits for carers and people with disabilities from the UK to my host country?

National social security systems on their own can't answer these questions, so without some form of coordination you could be at risk of being insured twice, or not at all, or losing the social security benefit rights you've acquired without having the opportunity to build up new ones.

EU social security coordination provisions are set out mainly in [Regulation EC 883/2004](#).

### ***B. What do the coordination provisions apply to?***

The EU coordination provisions apply to:

- payment of social security contributions;
- sickness and invalidity benefits;
- some disability benefits and benefits for carers;

- health care;
- maternity and equivalent paternity benefits;
- accidents at work and occupational diseases;
- old-age/retirement pensions;
- survivors' benefits and death grants;
- unemployment benefits;
- family benefits.

They don't cover social assistance/income support type benefits, which are usually means-tested and wholly subject to national legislation.

## **C. Where are you covered?**

The EU coordination provisions set rules to determine which country's social security system covers you when, for example, you've moved from one member state to another, or when you live in one state but work (or have previously worked) in another. This is important both for the payment of social security contributions and for your entitlement to benefits and the acquisition of future pension rights.

### **'Subject to the legislation of a member state'**

Regulation 883/2004, the WA and the Guidance Note all use the phrase **subject to the legislation of** [a member state] instead of 'covered by the social security system of' [a member state], although they mean the same thing. For consistency we use this phrase in the rest of this article.

The guiding principle is this: **you can only be subject to the legislation of (i.e. covered by the social security system of) one member state at any one time.** This applies even if you're employed in several member states at the same time.

In a nutshell:

- If you work in one member state, you're subject to the legislation of that member state (there are some exceptions to this rule, such as posted workers).
- If you work in more than one member state, the principle is to determine the state with which you have the strongest links.
- If you don't work, you are subject to the legislation of your state of residence.
- There are some exceptions for specific and more complex situations.

## **D. Your competent state**

The country you live in - your host country - is responsible for **providing your health care.** So if you live, for example, in France, you will receive health care through the French health system.

If you work in your host country or you have retired and receive a pension from your host country, then that country is also responsible for **paying for your health care**, even if you also receive a pension from the UK. The country responsible for paying for your health care is called your **competent state**.

Sometimes your competent state is not the country you live in. This happens if, for example:

- You have never worked in your host country and you receive a state retirement pension from the UK. In this situation you are **subject to the social security legislation of your host country** (i.e. that country is responsible for providing your health care) because you live there, but the UK is responsible for paying for it. The UK is your competent state and will reimburse your host country for the cost of your health care.
- You work and pay social security contributions in the UK but you are habitually resident (see Section 2A below) in an EU member state, where your main home is and where your family members live; you travel home twice a month. For example: your wife, who doesn't work, and your dependent daughter live in Spain, where your family home is. In this situation **you are subject to the social security legislation of the UK because you work there**; your family members will receive their health care in Spain but the UK is responsible for paying for it - **the UK is your competent state** and will reimburse Spain for the cost of their health care.
- Your **competent state may change as your circumstances change**. For example, you move to Portugal at the age of 60; you don't work but live on savings and your police pension. You are subject to the social security legislation of Portugal as you are resident there. You haven't yet reached state pension age in the UK so to begin with Portugal is your competent state; however, in 2022 you become eligible for a UK state pension; at this point the UK becomes your competent state and begins to reimburse Portugal for the cost of your health care.

If your competent state is not the country you live in, you will receive a Portable Document S1 from your competent state, which you must register with the health care institution of your host country. The S1 form ensures that your host country sets up reimbursement arrangements with your competent state. You are not involved in any way with these reimbursement procedures and you will receive health care in the same way as a national of your host country.

## 2. How does the WA cover social security coordination and who does it cover?

Social security coordination is covered by Title III of the WA (residence and other rights are covered in Title II). One very important point is that the scope of Title III is different, and wider, than that of Title II - so some people will be covered by it even though they are not covered by other parts of the WA, for example for residence rights, working rights or recognition of professional qualifications.

The aim of Title III of the WA is to protect the social security rights of those who, before the end of the transition period, are or have been in a 'social security cross-border situation involving the UK and an EU member state'.

In the specific context of social security coordination, there are 3 groups of people:

1. Those to whom all the current coordination rules (in Regulation EC 883/2004 and the implementing regulation 987/2009) apply and will continue to apply. This is covered in Article 30 of the WA and in Section 3 of this guide. If you are a UK national living in the EU at the end of the transition period this is the important section for you.
2. Those for whom part of the current coordination rules continue to apply or will become applicable in the future due to specific circumstances. This is covered in Article 32 of the WA and in Section 4 of this guide. If, at some point in the future, you move from your host country back to the UK, this section may be relevant for you.
3. Those who are completely outside the scope of Title III of the WA: for example, UK nationals who move from the UK to an EU country for the first time after the end of transition. See Section 5 of this guide.

You won't find a list in the WA itself of exactly which social security rights are covered by Title III; instead it refers you back (in Article 31) to Regulation EC 883/2004 and the implementing regulation 987/2009, which together form the legal basis for social security coordination in the EU (see Section 1).

**The coordination provisions in these regulations will continue to apply to you if you're in scope of ('covered by') Title III of the WA.** If the regulations should be amended in future, then you will be covered by the amended regulations.

## ***A. A word about definitions***

Because the aims of Title II (which covers residence, working rights etc) and Title III (which covers social security rights) are different, some terms which are used in both Titles may have a different meaning in each.

This is because different definitions apply in each Title: Title II takes its definitions from EU free movement rules (set out in Regulation EC 2004/38), while Title III takes its definitions from EU social security coordination rules (set out in Regulation EC 883/2004).

An important example of this is the term 'residence'.

- **In Title II, it refers to residence under EU free movement rules** - in other words, meeting the conditions to be legally resident in another EU country.
- **In Title III, it refers to 'habitual residence' under EU social security coordination rules.** This is a much broader term that takes into account a range of factors such as family status and ties, housing situation, reasons for the move, where the centre of your interests is, and more. You can find out more about habitual residence and how it's determined in the European Commission's guide, which you can access from [this page](#).

In some circumstances, you may be 'resident' in one country while being 'habitually resident' under in another.

**Example A:** you are a 18 year old British student whose family home is in Italy; in 2021 you decide to study at a university in the UK, financed by your family. During your studies you are 'resident' in the UK but because your income derives from Italy you are considered to keep your 'habitual residence' for social security purposes in Italy.

**Example B:** you are a UK national who works and is resident in Germany at the end of transition, where you have permanent residence rights under the WA. In 2023 you return with your family to the UK to work, where you buy a house and become 'habitually resident' for social security purposes. At the same time, you maintain a right of permanent residence in Germany for 5 years, under Title II of the WA ([see here for more about this](#)).

### **3. About Article 30 of the WA: those for whom all current social security coordination rules continue to apply**

Article 30 sets out a list of categories of people who, along with their family members and survivors, will be fully covered under the WA by the current social security coordination rules as set out in Regulation EC 883/2004.

This is the article that will apply to you as a British national resident in another EU country at the end of the transition period, who is covered by the residence provisions of the WA; it also applies to some people who are not resident, but we focus here mainly on those who are. Your family members and your survivors (for example, your spouse after your death) are also covered - but see paragraph D below.

*If you are in any of these categories, nothing will change for you at the end of transition concerning your pension, social security (including aggregation of pension contributions) and health care rights. See paragraph E on page 11 for a list of the main rights covered.*

There are three primary sets of circumstances outlined in Article 30 that may apply to UK nationals living in an EU country. In the following paragraphs we explain who is covered in each of these and give some examples.

#### **A. You are a UK national who, at the end of the transition period, is 'subject to the legislation of a Member State'**

Remember that you are subject to the legislation of a Member State if you are covered by its social security/health system - see Section 1 page 5 for more details on this.

*You are subject to the legislation of a Member State if*

- You work there as an employed or self-employed person. This applies even if you live in another Member State (for example, if you are a frontier worker). If you are a civil servant, you are subject to the legislation of the Member State of the administration that employs you.

- You are habitually resident there (see Section 2A on page 7) under any other circumstances (for example, you are retired, you are a student or you don't work for any other reason).

## Some examples of situations covered under this part

### **Example 1: you live and work in your host country**

*You live with your wife and children in Greece where you have been habitually resident (see Section 2A) since 2011 and where you are self-employed. You are subject to the legislation of Greece, which is responsible for providing your social security and health care. Nothing will change for you after the end of the transition period: as long as your situation remains unchanged (see Section F on page 11) you will continue to be covered by all current coordination rules.*

### **Example 2: you are a frontier worker in another EU country**

*You live with your husband and children in Germany where you have been habitually resident since 2012. You work as a university lecturer in the Netherlands, travelling there every week and returning home every weekend. As a frontier worker, you are subject to the legislation of the Netherlands as you work there, and the Netherlands is responsible for providing your social security and health care. You will also be eligible for health care in Germany where you live, and will receive an S1 form from the Netherlands. Nothing will change for you after the end of the transition period: as long as your situation remains unchanged you will continue to be covered by all current coordination rules. (Note: some countries - for example France and Switzerland - have agreements under which frontier workers can choose which health system to adhere to, but all other social security issues remain the responsibility of the Member State within which you work).*

### **Example 3: you are a student**

*You are 22, have lived with your family in Sweden for 7 years, and are habitually resident there at the end of the transition period. You are a post-graduate student at a university in Sweden and are still dependent on your family for funds. You are subject to the legislation of Sweden because you are resident there, and Sweden is responsible for providing your social security and health care. Nothing will change for you after the end of the transition period: as long as your situation remains unchanged you will continue to be covered by all current coordination rules.*

### **Example 4: you are retired in your host country with only a UK state pension**

*You moved to France on your retirement 4 years ago and are habitually resident there at the end of the transition period. You are subject to the legislation of France because you are resident there, and France is responsible for **providing** your health care. You have never worked outside France and receive only a UK state pension; this means that the UK is your competent state and is responsible for **paying for** your health care (see Section 1D page 5). You will have received and registered an S1 form. Nothing will change for you after the end of the transition period: as long as your situation remains unchanged you will continue to be covered by all current coordination rules.*

### **Example 5: you are retired in your host country with state pensions from both UK and your host country**

*You moved to Spain 20 years ago and are habitually resident there with your registered partner at the*

end of the transition period. You are now retired after working in both the UK and Spain and you receive state pensions from both countries. You are subject to the legislation of Spain because you are resident there, and Spain is responsible for providing your social security and health care. Because you receive a state pension from your host country, Spain is also your competent state and is responsible for paying for your health care. Nothing will change for you after the end of the transition period: as long as your situation remains unchanged you will continue to be covered by all current coordination rules.

### **Example 6: you are economically inactive but without a state pension**

You moved to France 4 years ago when you took early retirement from your career in the UK and are habitually resident there at the end of the transition period; you have a local authority pension but have not yet reached state pension age in the UK. You have never worked outside the UK and will receive only a UK state pension when you reach pension age. You are subject to the legislation of France because you are resident there, and France is responsible for providing your social security and health care. It is also, currently, your competent state and is responsible for paying for your health care. When you qualify for your UK state pension, and providing you have not by then become eligible for a French pension, the UK will become your competent state; it will take over the costs of your health care and issue you with an S1 form. Nothing will change for you after the end of the transition period: as long as your situation remains unchanged you will continue to be covered by all current coordination rules. Note: each member state has different rules for who may join its national health care scheme so the situation in your country may be different.

## **B. You are a UK national who, at the end of the transition period, is subject to the legislation of the UK and is habitually resident in a Member State.**

You are subject to the legislation of the UK if you work there or you are employed as a civil servant by a UK authority.

### **Example 7: you are habitually resident in an EU country but work in the UK**

you are habitually resident in Italy with your family at the end of the transition period - i.e your family home and the centre of your life is there (see Section 2A). You work in the UK, returning to Italy twice a month. You are subject to the legislation of the UK because you work there; the UK will issue an S1 form to cover your and your family's health care costs in Italy. While you remain in this situation, nothing will change for you after the end of the transition period: you will continue to be covered by all current coordination rules.

## **C. You are not, or you are no longer, covered by paragraphs A or B but you are covered by Title II of the WA.**

Some people who have residence and other rights under Title II of the WA (see our previous guides on [residence](#) and [family members/dual nationals](#)) may not fall into the situations in paragraphs A or B. For this reason, the Article 30 includes a residual clause, to make sure that if you are covered by the

WA's residence and/or other rules in Title II but you don't (or you no longer) fall within the conditions in the rest of Article 30, you will nevertheless continue to be covered by all the current social security coordination rules.

### **Example 8: children born after the end of the transition period**

*You are a UK national resident in Luxembourg with your UK national spouse at the end of the transition period; you are covered by the residence provisions of the WA and hold a WA residence card; in 2023 you have a daughter. Your daughter is also covered by the 'future children' residence provisions of the WA, but she doesn't come under paragraphs A or B of this section as she wasn't born at the end of the transition period. However, the residual clause ensures that she still comes under Article 30 and will be covered by all current coordination rules.*

### **Example 9: family members joining you under the family reunification provisions of the WA**

*You are resident in France at the end of the transition period and you hold a WA residence card. You support your elderly mother in the UK via a regular financial allowance; in 2022 your mother moves to live with you in France under the WA's family reunification rules as a 'dependent direct ascendant'. As she was not in France at the end of the transition period she doesn't come under paragraphs A or B of this section; however, the residual clause ensures that she still comes under Article 30 and will be covered by all current coordination rules.*

### **Example 10: dual nationals covered by Title II of the WA**

*You moved to Belgium in 2007, under EU free movement rules, and have been living there continuously ever since. In 2019 you applied for, and successfully acquired, Belgian citizenship and at the end of the transition period you are a dual UK-Belgian national. Although you don't need to rely on the WA for your residence rights in Belgium as these derive from your Belgian citizenship, because you first moved to Belgium under EU free movement rules you can nevertheless benefit from the rights included in the WA. The residual clause of Article 30 ensures that you will continue to be covered by all current coordination rules.*

## **D. Family members and survivors**

If you are covered by Article 30 of the WA, your family members and survivors are also covered - but only for those rights conferred on them in those specific capacities under social security coordination rules. For example: family benefits, death grants and survivors benefits, health care via the S1 scheme for family members and associated EHC coverage.

## **E. Which rights are covered?**

If you are covered by Article 30 of the WA, under paragraphs A, B or C above, you will continue to be covered by all current social security coordination rules. This applies equally to any family members who join you after the transition period under the [family reunification rules in Title II of the WA](#).

These are the basic rights covered:

## ***Pensions and social security***

- If you receive a UK state pension, or you will qualify for one when you reach state pension age (even if this is after the end of the transition period), this will be uprated each year as it would be if you were still living in the UK.
- If, before the end of the transition period, you've worked and paid contributions in more than one EU country (including the UK), the contributions you have made in the past and those you will make in the future will continue to be aggregated (added together) when you retire, just as they are now.
- If you receive any other exportable benefit from the UK, you will continue to receive it.

## ***Health care***

- If, at the end of the transition period, you are resident in your host country and hold an S1 form from the UK, the UK will continue to fund your health care costs. S1 forms issued to posted workers will however no longer be valid as such workers are not covered by the WA.
- Your family members are also covered - for example, if you have a spouse who is not yet in receipt of a state pension, they can be included on your S1 and will then be covered for health care as your dependent, as they are now. If they later become entitled to a UK state pension and the UK is their competent state, they can then apply for an S1 in their own right even if this is after the end of the transition period.
- If you're resident in your host country before the end of the transition period but you haven't reached state pension age at that point, you will be eligible to receive an S1 in future if you later qualify for a UK state pension, **as long as the UK will be or become your competent state** (see Section 1D).
- You will continue to be eligible to apply for health treatment in another EU country under the S2 (planned treatment) route even if the UK is your competent state and you have an S1. In addition, UK S1 holders also have the right to receive full medical care in the UK, on the same basis as someone who is ordinarily resident there.

## ***EHIC (European Health Insurance Card) and host country equivalents***

- The EHIC gives you the right to health treatment that becomes medically necessary during a temporary stay in another EU country. It is issued by the country that is your competent state for health care (see Section 1D).
- If you are resident in your host country at the end of the transition period and hold a UK issued S1 form, you will also continue to be eligible for a UK-issued European Health Insurance Card (the EHIC E) which can be used in any EU country. This applies also if you become entitled to a UK state pension after the end of the transition period (see the paragraph on health care above).

- If you are resident in your host country at the end of the transition period and you hold an EHIC (or its national equivalent) issued by that country, you will continue to be able to use this for medically necessary treatment during a temporary stay in the UK (as well as in other EU countries).

## **F. How long are you covered for?**

### **1. You come under paragraphs A and B above**

You are covered for as long as your situation remains unchanged or you 'continue to be in a situation involving both the UK and an EU Member State at the same time without interruption'.

The Guidance Note helpfully tells us that not every change is to be treated as a change. If, for example, your situation changes but you are still in one of the situations covered in this paragraph then you will continue to be covered - so you can move between any of these situations without falling out of scope of Article 30.

#### **Example 11: changing which legislation you are subject to**

*As in Example 7, you are habitually resident in Italy with your family at the end of the transition period - i.e your family home and the centre of your life is there (see Section 2A). You work in the UK, returning to Italy twice a month; you are subject to the legislation of the UK because you work there. In 2025 you leave your job in the UK and begin self-employment in Italy; you become subject to the legislation of Italy. Your personal situation has changed but because you still fall within one of the situations covered by Article 30, you will continue to be covered by all current coordination rules.*

*What happens if you move your habitual residence (or country of work) from one member state to another?*

This is not expressly covered by the Guidance Note. However, the European Commission has confirmed that if you come under paragraphs A and B above, you will continue to be covered if you move from one member state to another after 1 January 2021 as long as you meet any residency tests in your new country.

### **2. You come under paragraph C above**

You are covered for as long as you have a right to reside under the WA in your host country.

## **4. About Article 32 of the WA: those who are not, or are no longer, covered by Article 30 but for whom some coordination rules continue to apply (or will apply in future) due to particular circumstances.**

In this section we look at some situations in which part of the coordination rules continue to apply, or will become applicable in the future. This concerns people who are not, or are no longer, covered by Article 30 (as described in Section 3).

It will not be relevant for you as long as you remain covered by Article 30, but it may apply, for example:

- to you, if you return to the UK after working or being self-employed in an EU member state; and/or

- to your EU national spouse, if they previously lived and worked in the UK.

The purpose of Article 32 is to protect **existing and future rights** that are based on **past periods** of insurance, employment, self-employment and residence.

It covers UK nationals who have, before the end of the transition period, been subject to the legislation of an EU member state. It makes sure that if you have spent previous periods in the EU, you'll be able to claim or continue to receive benefits and if necessary rely on aggregation rules even if you have returned to the UK. It also covers EU nationals who have, before the end of the transition period, been subject to the legislation of the UK but are now residing in the EU.

'Benefits' means any kind of social security benefit based on previous periods of insurance, employment, self-employment or residence, such as retirement (old age) pensions, sickness and invalidity benefits, benefits for accidents at work or unemployment benefits.

Article 32 applies whether or not aggregation is necessary and for periods both before and after the transition period. It also covers changes in your competent state that may arise from future changes in your habitual residence or receipt of an additional social security benefit (see Example 15).

### **Example 12: UK national returning to the UK, aggregation needed**

*You lived and worked in Italy for 9 years until 2019, when you took early retirement and decided to return permanently to the UK. In 2022 you reach state pension age in the UK; you make your claim for a state pension there. Article 32 ensures that the contributions you made in Italy will be aggregated with those you made in the UK before your move to Italy (as they are not sufficient to receive a separate Italian pension).*

### **Example 13: UK national: covered by Article 30 and later by Article 32**

*You have worked all your life in the Netherlands, and are still living and working there at the end of the transition period. In 2024, when you are close to retirement age, you decide to move back to the UK, where you are non-economically active and you live on your savings. After a year, you claim a Dutch state pension. You have never worked in the UK.*

*You are covered by Article 30 and by the full coordination rules from the end of the transition period until you return to the UK in 2024. During this period, you are subject to the legislation of the Netherlands. When you move back to the UK, you are subject to the legislation of the UK because you are resident there. Article 32 ensures that you can receive your Dutch pension while living in the UK.*

### **Example 14: EU national spouse who has previously contributed in the UK**

*You are resident in Germany at the end of the transition period with your German wife, who before you moved together to Germany worked and paid contributions in the UK for 17 years. Before she moved to the UK she also worked and contributed in Germany for 12 years. She is currently inactive/early retired in Germany. When she reaches retirement age in 2029 she makes a claim in Germany for a state retirement pension; because her situation is covered by Article 32 she can also apply for and receive a UK state pension. Article 32 ensures that her UK pension will be uprated each year as if she were resident in the UK.*

## **Example 15: UK national, payment of pensions and future changes in competent state**

You are a UK national who has lived and worked in both the UK and Estonia. You return, with your Estonian husband, to the UK before the end of the transition period; you are not economically active there. The UK is your competent state for health care (see Section 1D). In 2022 you reach retirement age in Estonia and you receive an Estonian pension; Estonia becomes your competent state as you receive (only) an Estonian pension. In 2025 you reach retirement age in the UK and you begin also to receive a UK state pension. Coordination rules state that if you have retired and receive a pension from your country of residence, then that country is also responsible for paying for your health care, so once you begin to receive a UK state pension the UK once again becomes your competent state. In 2027 you move, with your Estonian husband, back to Estonia (under Estonian immigration rules, not under the WA, as this is a future move). You continue to receive both pensions and under coordination rules Estonia again becomes your competent state. Article 32 ensures (a) that you can receive your Estonian pension in the UK without any 'reduction, amendment, suspension, withdrawal or confiscation' due to living outside Estonia; (b) that Estonia is your competent state for health care when it provides your only pension; (c) that when you move to Estonia in 2027 you can continue to receive your UK state pension and that it will be uprated each year as if you were resident in the UK.

## **Example 16: family members and survivors**

You are the UK national described in Example 13, having returned to the UK in 2024, covered by Article 32 and in receipt of a Dutch pension. You die in 2027; Article 32 ensures that your spouse, as your survivor, is entitled to claim Dutch survivors benefits.

Article 32 also covers planned health care under the S2 scheme that is already in progress or already approved, but for space reasons we can't cover that here.

## **5. Those who are completely outside the scope of Title III of the WA and who therefore don't benefit from social security coordination between the UK and the EU under the WA**

You will not be not covered by any ongoing social security coordination between the UK and the EU, under either Article 30 or Article 32, if:

You are a UK citizen who moves from the UK to an EU member state after the end of the transition period (unless you do so as a family member under the WA's family reunification provisions - see Section 3C). This means that any social security, health or pension rights that involve the UK will be subject to any future coordination agreement between the EU and the UK.

If, however, you had previously lived in that same member state before the end of the transition period, and you had acquired permanent residence rights there, and you had been absent for less than 5 years, you will have retained residence rights in that country under the [continuous residence rules in Title II of the WA](#) even while you have been habitually resident in the UK. In this situation you would be covered by the residual clause in Article 30 (see Section 3C above); see Example 2 in Section 2A.

You are a dual citizen who has not exercised free movement rights. For example, you were born in Italy to a British mother and an Italian father, you have both UK and Italian citizenship, and you have lived only in Italy before the end of the transition period, and you are adult and not dependent on your parents. You are subject only to the social security legislation of Italy and are not covered by the WA.



This is the third article in British in Europe's information campaign about the Guidance Note to the Withdrawal Agreement and how it affects you as a British citizen living in an EU country.

**If you have found this useful, please consider a regular donation to ensure we can continue to produce information guides.**

**We are a volunteer organisation and rely upon individuals to support us.**

**[www.britishineurope.org](http://www.britishineurope.org)**