United Kingdom: Braced for Brexit? Time to consider social security

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In brief

In a statement made by Theresa May on November 14, 2018, the UK Prime Minister confirmed the Cabinet's support of the Brexit proposal of November 13, 2018. If the EU and the UK Parliament approve the deal, it will mean good news for employers who will be able to continue to obtain A1 certificates during a transition period, expected to end at December 31, 2020. Once this period ends – or in the event any deal is blocked – employers will need to be ready to comply with a very different set of rules.

This *Insight* sets out recommended actions for HR, tax, and mobility professionals.

In detail

The deal proposed by Brussels on November 13 (and endorsed by Prime Minister Theresa May's Cabinet on November 14) has some way to go before being finalized. However, assuming the final deal is approved through parliamentary processes, we expect there to be a transitional period from March 29, 2019 until December 31, 2020, under which current EU regulations will continue to apply to the UK, including the coordination rules on social security for assignees and business travellers working under arrangements **starting** before December 31, 2020. This means that employers can continue obtaining A1 certificates during the transition period.

More detailed analysis of the proposed transitional rules can be found here.

If no deal is reached, it is likely to trigger the application of a currently limited set of bilateral agreements between the UK and the EU member states. Generally, these agreements have a limited scope of application compared to current EU regulation and the agreements may not be fit for the purpose of regulating the current mobile workforce, as the agreements have been made decades ago.

If a deal is reached what are the consequences and how should employers prepare? We recommend a four-step approach for HR, tax, and mobility professionals:

- Understand your current population
- Identify key compliance requirements
- Prepare to brief your business stakeholders
- Communicate to your employees.

Understand the current population

Once EU regulations cease to apply, employers with UK inbound and outbound individuals will need to familiarize themselves immediately with a 'new' set of rules – which, in reality, is likely to mean the limited suite of underlying bilateral agreements the UK had negotiated with individual EU member states, generally pre-dating the current European regulations.

- Many agreements with key EU markets only allow for an initial coverage period of say six or 12 months (as opposed to up to five years under European regulations). A number also do not cover third-country nationals. This may result in assignees needing to flip into host country social security systems, which could be either cheaper (e.g., France to UK) or more expensive (e.g., UK to France), but will certainly entail complexities in registrations with authorities, payroll, and accounting.
- Other key markets (e.g., Czech Republic, Greece, Hungary, Poland, and Slovakia) do not have agreements with the UK at all, which means returning to the domestic legislation on both sides (including potential double costs due to the complexities of continuing UK National Insurance liabilities for 52 weeks for outbounds).

Mobile employees therefore will trigger obligations in other countries after Brexit than what would have been the case before, which makes a population review a vital action.

Identify key compliance requirements

Organizations need to be prepared to comply in a number of areas.

- Some overseas authorities have blocked the issuance of A1 certificates past March 29, 2019 in anticipation of a no-deal Brexit, while others accept the validity of A1 certificates after that date.
- If the deal is blocked, it is unclear whether certificates that were issued to a fuller term will continue to be valid or will become ineffective on March 29, 2019. Either way, there will be an action for employers to identify affected individuals and apply for new certificates (if a bilateral agreement allows this).
- If a certificate of coverage is not applicable or an agreement is not in place, employers may have to prepare to comply with domestic legislation on registrations and withholding of social security contributions.
- Without access to 'multistate' provisions, it is possible that payroll obligations are triggered in more than one country and that a split may need to be operated according to the work pattern of individuals.

Prepare to brief business stakeholders

HR, tax, and mobility professionals are best-placed to advise the business on the staff cost impact of Brexit.

- Stakeholders within your organization – including line managers, local HR, and finance functions – will need to understand the cost impact of the changes, for which they may need to accrue.
- At the same time, there will be opportunities to minimize cost through flexing assignment structures and contractual arrangements.
- By costing out the differential in main corridors of movement and reviewing their approach, mobility functions can support the organization to minimize disruption.

Communicate to employees

State benefits is an emotive topic and there will be unprecedented changes to benefit entitlements once EU regulations cease to apply. While in line with arrangements between the UK and other non-EEA countries with or without bilateral reciprocal agreements, this will be alien to today's European workforce who is used to a high degree of mobility on the continent with reciprocal rights.

- For example, a UK employee working in Poland for nine years would accrue some degree of Polish pensions entitlement through contributions, but a Polish employee working in the UK for the same length of time would be entitled to no UK state pension at retirement.
- There will be more restrictions to access benefits such as unemployment and maternity/paternity allowances for UK employees in Europe.
- Access to healthcare is likely to be restricted as European Healthcare Insurance Cards and S1 certificates will no longer be issued or valid, unless the UK Government steps in to provide additional reciprocal cover and the EU states sign up to this, as these are mechanisms governed by European legislation.

Employers should pre-empt questions from their mobile population and consider their policy as to whether to support financially and practically given the consequences.

The takeaway

With a draft withdrawal agreement backed by the Prime Minister's Cabinet, a Brexit deal that will permit the European social security status quo to continue in the UK for the time being seems achievable, but not to be taken for granted. In light of this, now is the time for employers to plan for the changes which will inevitably come – whether at March 29, 2019, or at the end of the transition period triggered by a deal.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact your PwC Global Mobility Services engagement team, or one of the following professionals:

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