UK: Social Security Implications of the UK Vote to leave the European Union

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In brief

On 23rd June, the UK held a referendum on whether it should continue to be a member of the European Union (E.U.) in which the British population voted in favour of leaving.

There will now be a period in which the UK government will negotiate terms of departure with the European Commission, and much will be uncertain during that time. However, it is highly likely that the social security position of mobile employees coming from other EU countries to work in the UK and vice versa will be substantially changed. Costs may increase, dual liabilities may arise, and employee benefits may suffer a negative impact, all of which will be of concern to businesses with employees who are mobile between the UK and other EU countries.

This *Insight* highlights some of the potential changes and recommends action which businesses should take now to ensure they are prepared for the future.

In detail

At present, the social security position of employees who are assigned from one European country to another are governed by pan-European social security regulations, which apply to all EU member states, members of the European Economic Area (Norway, Liechtenstein and Iceland) and Switzerland.

These European Regulations normally permit employees assigned from one European country to work in another European country for periods of up to five years to remain in their home country social security system, so long as certain criteria are met. This ensures continuity of coverage in the home country, which reflects most employers' desired policy for globally mobile employees.

The Regulations also provide for "totalisation" of benefits, such that where contributions have been paid in two or more European countries, each country takes account of the contributions made in the other location in order to satisfy any vesting criteria for receipt of benefits.

When the UK leaves the EU, it is highly likely to lose access to these Regulations (unless it were to remain a member of the EEA or negotiate a bilateral deal with the EU as Switzerland has done).

The social security contributions and benefits position for mobile employees may therefore change following the UK's exit.

Underlying bilateral agreements

The UK has a number of bilateral social security agreements with EU member states, including Switzerland, the Netherlands and Norway. Following the UK's departure from the EU, these may be used instead of the European Regulations to maintain home country social security coverage during an assignment.

However, the bilateral agreements typically provide less comprehensive provisions on totalisation of benefits, therefore mobile employees who pay into two or more countries' systems during their career may suffer an impact on their benefit entitlement which they would not previously have experienced.

In addition, there are a number of countries with which the UK has no bilateral agreement, or an agreement with very restrictive terms. Unless and until such agreements are negotiated or revised – which may well not be until some considerable time after the UK has left the EU – mobile employees will simply be subject to the domestic rules of each country in which they work, potentially creating dual liabilities and fragmented contributions records.

Dual liabilities may occur

UK domestic rules provide that an employee assigned from the UK to work in a country with which the UK has no social security agreement will normally be subject to social security in the UK for the first 52 weeks of the assignment. At the same time, the host country may impose social security contributions from day 1.

Conversely, a non-UK employee assigned to work temporarily in the UK from a non-agreement country will typically have a 52 week exemption from UK social security but thereafter will have a UK liability and may also have an ongoing liability in their home location throughout the assignment.

These scenarios could occur quite regularly for moves between the UK and Europe once the UK has left the EU, unless a full suite of bilateral agreements is put in place.

Change in contribution costs

Employers will also have to evaluate the potential that higher social security contribution costs may arise in respect of certain moves. For example, a UK national assigned to work in France for 2 years currently pays UK social security, which is considerably cheaper than French social security. However, following the UK's exit from the EU, unless a new bilateral agreement is negotiated between the UK and France, French contributions will be due (as the maximum assignment duration in the existing French agreement is only six months – with a possible 6 month extension). This will represent a material increase in the assignment cost, particularly for higher earners.

Conversely, there may be some circumstances in which contribution costs may be lower than under the current arrangements.

Impact on benefits

Particularly where no bilateral agreement exists, it will be hard for short-term assignees to accrue any entitlement to benefits in return for contributions made in the countries they work in. This is because there are typically minimum contribution periods required in order to access benefits – and the period can be substantial for long-term benefits such as pension. For example, in the UK 10 years of contributions are required to become entitled to the UK state pension.

This is likely to be of concern to mobile employees for whom social security benefit entitlement is often an emotive subject.
On the other hand, for UK outbound employees in particular, where they are able to meet vesting criteria, they may gain access to more generous benefits than the UK equivalent, making some assignments more attractive.

The takeaway

Global mobility teams should evaluate their current mobile populations to ascertain how social security positions might change and to quantify any potential increase in costs following the UK's departure from the EU.

We would also recommend consideration is given to any potential impact on employee benefits and appropriate policy decisions are taken to ensure that social security does not become a barrier to mobility in the future.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact the following representatives from PwC's Global Social Security Centre of Excellence:

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