



HM Government

Explainer for the agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens' rights following the withdrawal of the United Kingdom from the European Union and the Free Movement of Persons Agreement

20 December 2018

UK-SWISS CITIZENS' RIGHTS AGREEMENT

1.1.Summary

1. The United Kingdom has now reached agreement on citizens' rights with Switzerland. The terms of this agreement protect the rights of Swiss citizens in the UK and UK nationals in Switzerland, ensuring that they can continue to contribute to their communities and live their lives broadly as they do now.
2. The Government has been clear that its first priority as part of securing a smooth and orderly exit from the EU was to provide certainty for citizens. Swiss nationals are valued members of their communities and play an integral part in the economic, cultural and social fabric of the UK, as do UK nationals living in Switzerland, who are equally valued by their host country and communities.
3. Individuals require assurance that their rights will be protected and the Swiss citizens' rights agreement provides that certainty. Those falling within scope of the Swiss citizens' rights agreement will have broadly the same entitlements to work, study and access public services and benefits as now, in as far as these entitlements have derived from UK membership of the EU and the EU-Swiss Free Movement of Persons Agreement (FMOPA).
4. The agreement also establishes governance arrangements that provide legal certainty and clarity to citizens. These arrangements respect the autonomy and integrity of both the UK's and Switzerland's legal orders.
5. This document is intended as a guide to support understanding of the Swiss citizens' rights agreement as published on 20 December following a format of:
 - a. Part One: Common provisions
 - b. Part Two: Annex I related rights (migration and residence)
 - c. Part Three: Coordination of social security systems
 - d. Part Four: Mutual recognition of professional qualifications
 - e. Part Five: Final provisions
 - f. Annex to the agreement

1.2 Implementing the Swiss citizens' rights agreement

6. The Swiss citizens' rights agreement will require domestic legislation in order for it to be implemented in the UK. In November 2017, the Government announced its intention to introduce the EU (Withdrawal Agreement) Bill (the "Bill") to give effect to the UK-EU Withdrawal Agreement in UK law. This Bill will also be the primary vehicle for the implementation of the Swiss citizens' rights agreement.
7. The Swiss citizens' rights agreement will also be subject to the provisions of the Constitutional Reform and Governance Act 2010. Following this, the treaty will be ratified, and can enter into force. For the duration of the implementation period, in a

deal scenario, the UK will remain bound by existing EU agreements with Switzerland, including the FMOA. The Swiss citizens' rights agreement will therefore come into force at the end of the implementation period, supporting the ending of free movement after we leave the EU. The settlement scheme will be open to Swiss citizens on a voluntary basis from exit day. In the unlikely event of a 'no deal' outcome with the EU, the agreement will come into force from exit day.

8. In line with established constitutional arrangements, the UK Government has negotiated this agreement on behalf of the whole of the UK, including the devolved administrations, and Gibraltar. Gibraltar will need to pass their own legislation, if required, to ensure that this agreement is fully implemented in their jurisdiction.

PART ONE: COMMON PROVISIONS (*Articles 1-8*)

Summary

9. Part one of the Swiss citizens' rights agreement establishes definitions and the framework provisions for the entire agreement.

What is covered in part one:

10. The purpose of the Swiss citizens' rights agreement is to lay out the arrangements for citizens when the FMOPA ceases to apply between the UK and Switzerland. Those protected by the agreement will enjoy lifelong rights.
11. During the implementation period, in a deal scenario, the UK will remain bound by existing EU agreements with Switzerland, including the FMOPA. Therefore the specified date in a deal scenario, in other words the date from which the agreement will come into force and the cut off point for eligibility, will be the end of the implementation period.
12. The agreement will apply even in the unlikely event of a no deal outcome with the EU. In this scenario the specified date is defined as being exit day.
13. Part one also sets out how this agreement should be interpreted and enforced. Both parties must make sure that their domestic legislation is consistent with the agreement. When interpreting the legislation that implements this agreement, courts should have due regard to the agreement itself.
14. Part one binds the UK and Switzerland to a duty of good faith, meaning that neither side should act in a way to undermine the agreement, and the UK and Switzerland should work to support each other in carrying out the tasks set out and flowing from the Swiss citizens' rights agreement.
15. All references in the Swiss citizens' rights agreement to the FMOPA refer to the FMOPA as applicable on the specified date. The exception to this is aspects of social security coordination under part three. Should the FMOPA change after the specified date, those amendments would not apply to the UK except in terms of social security coordination, where there will be a role for the Joint Committee in incorporating any amendments into the agreement.
16. Part one sets out arrangements for the creation and functioning of the Joint Committee, which will be responsible for the management and monitoring of the agreement. It will meet as and when necessary and can decide to establish working groups to carry out certain functions. The UK or Switzerland may refer to the Joint Committee any issue relating to the interpretation or application of the Swiss citizens' rights agreement. The Joint Committee will then be empowered to make decisions and recommendations by mutual consent.

PART TWO: ANNEX I RELATED RIGHTS (*articles 9-24*)

Summary

17. This part sets out the migration and residence rights protected by the agreement. Its title refers to Annex I of the FMOPA, which is the current basis for these rights.

What is covered in part two:

Eligibility and scope of citizens' rights

18. Part two provides that all UK nationals lawfully residing in Switzerland at the specified date (the end of the implementation period in a deal scenario; exit day in a no deal scenario) will be able to stay, as will all Swiss citizens lawfully residing in the UK. Their family members resident in the host state by the specified date will also be covered by the rights set out in the Swiss citizens' rights agreement. Individuals in scope of the agreement can be joined by close family members (spouses, civil and unmarried partners, dependent children and grandchildren, and dependent parents and grandparents) who live in a different country at any point in the future, if the relationship existed on the specified date and still exists when the person wishes to come to the UK. Individuals in scope of the agreement can also be joined by new spouses and partners under current rules for five years after the specified date. Any child born to (or who otherwise becomes a child of) an individual in scope is also protected by the agreement. The agreement also protects the rights of those citizens who reside in one state and work in another ('frontier workers').

Rights related to residence

19. UK nationals who are living lawfully in Switzerland at the specified date will be able to continue living there. Equally, Swiss citizens who have been living lawfully in the UK at the specified date will be able to continue living in the UK. After five years' residence, those in scope of the agreement will be able to apply for settled status in the UK or permanent residence in Switzerland.
20. The Swiss citizens' rights agreement enables the host state to restrict these rights if the individual is a serious or persistent criminal, or if they seek to abuse or defraud the system.
21. In the UK, Swiss citizens and their family members can apply for a residence status through the EU Settlement Scheme. Further information on the EU Settlement Scheme can be found on gov.uk. Switzerland has a choice whether to require UK nationals and their family members to apply for a new residence status or not.
22. As set out in the Swiss citizens' rights agreement and in line with the EU Settlement Scheme, any application process adopted by Switzerland for UK nationals must be short, simple and user-friendly. The residence status shall be issued free of charge, or for a charge not exceeding that imposed on citizens or nationals for the issuing of similar documents, for example a national identity card or passport. The right to

reside permanently in the host state can only be lost through an absence from the country of more than four years unless it is restricted due to a person's conduct or failure to notify Swiss authorities of departure abroad within 6 months of leaving.

Entry and exit

23. Swiss citizens and UK nationals, and their respective family members, will continue to have the right to leave and enter with a valid passport or national identity card (or for third-country national family members a valid passport only) for five years after the specified date.

Rights of workers and the self-employed

24. Workers and self-employed persons will be guaranteed broadly the same rights as they currently enjoy under the FMOPA. They have a right to not be discriminated against due to nationality, and the right to equal treatment with host state nationals. For example, equal treatment in respect of the right to pursue economic activity, conditions of employment, the right to tax concessions and welfare benefits, collective rights, access to housing and the right for their children to receive an education.

Equal treatment

25. The Swiss citizens' rights agreement protects the existing rights to equal treatment and non-discrimination for Swiss citizens residing or working in the UK, UK nationals residing or working in Switzerland, and their family members. They will have broadly the same entitlements to work, study and access public services and benefits as now where these entitlements have derived from UK membership of the EU and FMOPA. These entitlements for Swiss citizens will be subject to any future domestic policy changes which apply to UK nationals.

Service providers

26. Service providers can continue to benefit from the current EU-Swiss 90 days' service provision rules for at least five years following the specified date for written contracts which have been concluded and started before the end of the specified date.

PART THREE: COORDINATION OF SOCIAL SECURITY SYSTEMS (*articles 25-28b*)

Summary

27. This part sets out the social security coordination arrangements protected by the agreement. It relates to Annex II of the FMOPA, which is the current basis for these rights.

What is covered in part three:

28. EU regulations on social security coordination will continue to apply across the whole of the UK from the specified date (the end of the implementation period in a deal scenario; exit day in a no deal scenario) for individuals in scope of the Swiss citizens' rights agreement. This will ensure that citizens who have moved between the UK and Switzerland before the specified date are not disadvantaged in their access to pensions, benefits and other forms of social security, including healthcare cover. The Swiss citizens' rights agreement also provides protections in a number of other circumstances, such as where a UK national, although not living in Switzerland at the specified date, has paid social security contributions in Switzerland in the past. The rights that flow from those contributions such as benefits, pension and reciprocal healthcare rights will also be protected.
29. Switzerland will be required to take into account contributions paid into its social security systems by individuals within scope of the Swiss citizens' rights agreement. As now, the amount of State Pension to which those individuals will be entitled as a result of the contributions will be determined according to each state's social security legislation.
30. Persons who are in scope of the Swiss citizens' rights agreement for full social security coordination purposes will also continue to benefit from the coordination rules, for as long as they remain within the scope of that section. This will ensure that the worker (and their employer) only pays into one social security system at a time, and that the right to aggregate both contributions paid, and periods of insured residence completed, for the purposes of meeting the different states' benefit entitlement conditions continues. This includes all contributions made both in the UK and Switzerland before and after the specified date, and the rules will also protect the rights that flow from such contributions.
31. Where the UK, or Switzerland, is responsible for the healthcare of those within scope of the social security coordination part of the Swiss citizens' rights agreement, such individuals will be entitled to reciprocal healthcare cover from their competent country.
32. The Swiss citizens' rights agreement will also protect the rights of individuals who are in a cross-border situation (for example a UK national who is in Switzerland for a holiday or for the duration of a course of study) at the specified date, and who are entitled to a European Health Insurance Card (EHIC), to continue to benefit from that scheme for as long as that cross-border situation in the state they are in continues.

33. The Swiss citizens' rights agreement also protects the rights of people visiting the UK or Switzerland for planned medical treatment, where authorisation was requested before the specified date, so they are able to commence or complete their treatment. This guarantees that patients will be able to complete a course of treatment and provides the certainty that patients need during a vulnerable time in their lives.

PART FOUR: MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS (*articles 29-33*)

Summary

34. This part relates to Annex III of the FMOPA, which is the current basis for these rights.

What is covered in part four:

35. The UK and Switzerland have agreed that UK and Swiss professionals will:
- a. continue to have their professional qualifications recognised where they obtained a recognition decision before the specified date (end of the implementation period in a deal scenario; exit day in a no deal scenario); and
 - b. have a four year grace period from the specified date to start the application process for a recognition decision, provided they have obtained a qualification or were in the process of obtaining a qualification before the specified date.
36. This will cover qualifications recognised under the Professional Qualifications Directive for the purposes of establishment, lawyers practising under their home and host state title and persons engaged in the trade and distribution of toxic products.
37. Professionals providing cross-border services in regulated professions under the 90 days' services provision in Part Two will continue to benefit from the rules regarding temporary and occasional provision of services as set out in the Professional Qualifications Directive and the Lawyers Services Directive.

PART FIVE: FINAL PROVISIONS (*articles 34-36*)

Summary

38. The final provisions to the Swiss citizens' rights agreement state that the agreement will enter into force after the implementation period in a deal scenario or from exit day in a no deal scenario.