

British nationals returning to the UK after living in Spain

Returning to live in the United Kingdom - What am I entitled to?

If you have just returned, or are thinking of returning to live in the UK after living in another country in Europe, you may need to know about benefits you can get or how your benefits are affected.

If you are already getting a UK benefit, contact the International Pension Centre (details are at the back of this fact sheet).

What benefits can I get?

Once you have moved back to the UK, the benefits you can get will depend on one or more of the following:

- National Insurance (NI) contributions you, your husband/wife/civil partner or late/former husband/wife/civil partner have paid over your working life
- Which European country you last worked in
- Whether you usually live in the UK, and
- Why you have come to or returned to the UK

There are some benefits you can only get if you have paid National Insurance (NI) contributions, and there are some which do not rely on NI contributions. You will usually pay NI contributions in the UK if you earn above a certain amount.

If you have never lived in the UK before, you will not normally have paid NI contributions. This will usually mean that you can't get those benefits which are based on NI contributions. However, if you or your husband, wife or civil partner have paid the equivalent of NI contributions in another country, or in some cases have lived in another country, this can sometimes help you to qualify for benefits in the UK.

This only applies to some benefits, and only to countries in the European Economic Area (EEA), Switzerland and countries that have a special agreement with the UK.

Benefits based on NI contributions

State Pension

You may get a UK State Pension only if you have enough qualifying years¹ from a UK NI contribution record.

People who move between Spain and the UK are covered by European Union (EU) social security law.

The EU law says that if you are entitled to a UK State Pension this will continue to be paid at the same rate as in the UK, including annual increases, while living in Spain, or any other Member State. So returning to live in the UK will not change the amount that you get. But, you will need to tell us about your change of address and give us your new bank account details if you no longer use the same account. You do not need to satisfy the Habitual Residence Test to keep getting your State Pension when you come back to the UK.

If you have worked in Spain and paid social security contributions there for more than one year, and 15 years in total in any EU Member State, you may be entitled to a Spanish pension when you reach 65. This will be calculated either on the basis of the contributions you paid in Spain or, if higher, under the EU rules. These rules ensure that you will receive a pension from each member state you have worked in, proportional to the time you spent in that state.

For more information on State Pension, get leaflet **PM2 'State Pensions: Your Guide'**.

Bereavement Benefits

You may get Bereavement Benefits if your late husband, wife or civil partner has paid NI contributions in the UK. Social Security insurance in other European countries may help satisfy the conditions. If you are entitled to a UK Bereavement Benefit this may continue to be paid at the same rate as in the UK, including annual increases, while living in Spain. Contact the International Pension Centre for more information (details are at the back of this fact sheet).

Women widowed prior to 9 April 2001 who return from abroad may be entitled to Widow's Benefit providing all the conditions are met.

For more information on Bereavement benefits, get leaflet **DWP1005, 'Bereavement benefits'**.

Contribution-based Employment and Support Allowance & contribution-based Jobseeker's Allowance

You may be treated as having paid the necessary NI contributions to get these benefits if you have paid enough UK NI contributions and/or the equivalent of NI contributions in other European countries.

¹ Qualifying years are tax years where you have sufficient income to pay National Insurance contributions (NICs), or are treated as having paid or being credited with NICs.

For information on the general rules for Employment and Support Allowance, get leaflet **DWP1001, 'Employment and Support Allowance: Help if you are ill or disabled'**. For information about Jobseeker's Allowance get leaflet **DWP1002, 'Jobseeker's Allowance: Help while you look for work'**.

Income-related Benefits

Income-based Jobseeker's Allowance

Income Support

Income-related Employment and Support Allowance

Pension Credit

Housing Benefit

Council Tax Benefit

If you are receiving Pension Credit and have been out of the country for longer than 13 weeks, you should have let The Pension Service know before you left the UK. To make sure you are receiving all your Pension Credit entitlement please phone The Pension Service on 0845 60 60 265.

You can only get these benefits if you have a right to reside and are habitually resident in the UK, the Republic of Ireland, the Isle of Man or the Channel Islands.

Habitual residence is a question of fact decided by looking at all the circumstances in each case. An important factor is establishing a settled intention to reside and generally, you will also need to be actually resident in the UK for a period of time before you can become habitually resident. We will decide by asking questions such as:

- Have you worked in the UK?
- How long you have lived abroad?
- Why you have come to the UK?
- How you plan to support yourself in the UK?
- How long you plan to stay in the UK?

For further details on the Habitual Residence Test, see the Questions and Answers section in this fact sheet.

For more information on these benefits, get the following leaflets:

- **Jobseeker's Allowance: Help while you look for work (DWP1002)**
- **Income Support: Help if you're on a low income (DWP1003)**

- **Employment and Support Allowance: Help if you are ill or disabled (DWP1001)**
- **Pension Credit – Do I qualify and how much could I get’ (PC1L)**
- **Housing Benefit and Council Tax Benefit – Help with housing costs’ (DWP1015)**

Child Tax Credit and Working Tax Credit

Child Tax Credit (CTC) and Working Tax Credit (WTC) were introduced in April 2003. CTC is for families with children and is payable regardless of whether the adult(s) in the family are in work. WTC supports working people on low and middle incomes with extra amounts for people with disabilities.

Tax credits are administered by and claimed from HM Revenue & Customs (contact details are at the back of this fact sheet).

Entitlement to NHS Treatment

Entitlement to free NHS treatment is based on 'ordinary residence' in the UK, not nationality or the payment of UK taxes or national insurance contributions. Ordinary residence broadly means living in the UK on a lawful and properly settled basis.

Registering with a GP

Anyone can approach a GP practice local to where they are taking up residence to ask to be registered and thereby receive free primary medical services. Registration is entirely at the discretion of that GP practice but they cannot refuse to register you for discriminatory reasons. If you have difficulty registering with a GP, you should approach the local Primary Care Trust for assistance.

Hospital Treatment

If you were to need hospital treatment shortly after your return to the UK, you might not be considered to be ordinarily resident here, in which case you would be subject to charges. However, there are a number of “exemption from charge” categories, so that some people who cannot be said to be ordinarily resident here are nevertheless entitled to free hospital treatment. One such exemption is for anyone taking up permanent residence in the UK, which can apply immediately.

Since it is the legal duty of NHS trusts to establish entitlement to free treatment, they are within their rights to request evidence that proves that it is the patient's intention to take up permanent residence, rather than stay temporarily, and you should consider what you might provide if asked. Examples are evidence of selling property or ending a rental agreement, transfer of assets, shipping goods, buying property in the UK etc.

Social Services

If you have recently returned from abroad and require community care services, you should approach your local authority to request an assessment. Local authorities have a duty to assess any person for whom they may provide, or arrange the provision of, community care services, and who appears to the authority to be in need of such services. Having carried out an assessment, the local authority must decide whether to provide services.

Local authorities are under a duty to provide residential accommodation to a person aged 18 or over who, by reason of age, illness, disability or any other circumstances, is in need of care and attention which is not otherwise available to them, provided the person is "ordinarily resident" in the local authority's area, or is in urgent need. They also have power to provide residential accommodation to people of no settled residence or who are ordinarily resident in other local authority areas.

Local authorities have a duty to provide non-residential services to people who are ordinarily resident in their area and a power to provide such services to other people.

Individuals may be required to contribute to the cost of the services provided for them, depending on their ability to pay. A person who has sufficient means to pay for residential accommodation, as well as the ability to make the arrangements on their own - or someone to do this for them - is not considered to be "in need of care and attention" which is not otherwise available to them.

Whether a local authority will provide services in any particular case will depend on the individual's level of need.

Housing

It is recommended that, where possible you make arrangements for accommodation in the UK before your arrival. Accommodation is available for rent from private landlords in most areas and you may wish to contact a lettings agency in the area where you wish to live. You may be able to claim Housing Benefit to assist with the cost of rent. If you wish to apply for social housing (rented accommodation provided by a local authority or housing association), you should apply to the local authority in the area where you wish to live. However, you should be aware that demand for social housing is generally high and you are likely to have to join a waiting list. If you apply in England, Wales or Northern Ireland, you will need to be habitually resident in the UK, the Republic of Ireland, the Isle of Man or the Channel Islands (also known as the Common Travel Area). However, there is no requirement to satisfy the Habitual Residence Test in Scotland.

If you are homeless or at risk of homelessness, free information and advice is available in the UK and most authorities also provide a Housing Options Service for people who seek help to obtain accommodation.

If you are homeless though no fault of your own, fall you within a priority need group and are habitually resident in the Common Travel Area, the local housing authority

will have a duty to secure suitable accommodation for you. They must also provide advice and assistance if you have made yourself homeless or you do not fall within a priority need group. However, these duties can vary in different parts of the UK.

Q & A

Do I need to pass the Habitual Residence Test (HRT) for income-related benefits when I return to the UK?

You will only have to pass the HRT if you claim an income-related benefit (Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Pension Credit, Housing Benefit and Council Tax Benefit) or if you apply for social housing or homelessness assistance in England, Wales or NI. There is no requirement to take the test if you do not apply for any of the above.

How do I take the Test?

When you apply for an income-related benefit, social housing or homelessness assistance, you will normally be given forms to complete relating to the Habitual Residence Test. These forms will ask you various questions to determine whether you have a right to reside and whether or not you are habitually resident in the UK. It is important that you answer these questions as fully as possible as your answers will form the basis on which the decision will be made.

What do I need to do to pass the Test?

There are no hard and fast rules to pass the test. However, the sorts of things that will help demonstrate habitual residence are:

- Putting children in school
- Use of a UK bank account
- Actual residence
- Bringing your possessions with you
- Travelling on a one-way ticket
- Selling your property abroad
- Securing accommodation in this country
- Bringing your family with you
- Deregistering with Foreign Authorities
- Registering with a doctor, dentist, electoral role, and so on
- Your future plans.

How long after returning to the UK must I have lived before I pass the test?

It takes varying times for people to satisfy the test. However, being resident in the UK for a period of between 1 and 3 months is generally accepted as sufficient time to be considered habitually resident.

However, it is possible to be habitually resident in a shorter period, particularly where the person is re-establishing ties in the UK.

Is there anything I can do before I leave Spain to demonstrate that I will make the UK my home?

There are ways to show that you no longer wish to live in Spain. Examples of these are:

- Deregistering your Foreigner's Identification Number (NIE). You can do this at your local Police Station
- Deregistering from the Local Electoral Role (Padrón). You can do this at your local Town Hall
- If you have been resident in Spain and accessed health care via a UK issued E121 form, you will need to cancel this form when you leave by contacting the Spanish sickness office where you originally registered your E121.

If I pass the Test, will I have to take it again?

If you pass the test, you will not be required to take the test again unless you leave the country for more than 2 years and subsequently return and make a claim for an income-related benefit.

If I fail the Test, will I be excluded from claiming benefits?

If you fail the HRT, you will not be entitled to any income-related benefits. However, you are free to retake the test again at anytime. Once you can demonstrate you are habitually resident in the UK, you will be able to qualify for benefits.

Which social security benefits are income-related?

Income-related benefits are based on your income and savings. These include Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Pension Credit, Housing Benefit and Council Tax Benefit.

Do I have to pass the HRT before getting contributory-benefits?

No. The HRT only applies to income-based benefits. Contributory benefits include contribution-based Jobseeker's Allowance, contribution-based Employment and Support Allowance and Basic UK State Pension. These benefits can be paid to anyone who satisfies the contribution and other conditions for the benefit. This is regardless of your nationality or the length of time you have spent in the UK.

I have topped up my National Insurance Record by making voluntary contributions. Will this enable me to get contribution-based benefits when I return to the UK?

Voluntary contributions help towards your Basic UK State Pension. Other contribution-based benefits require you to have paid contributions whilst in

employment or self employed; and only Class 1 (employed) contributions paid while working count towards unemployment benefits.

I am claiming unemployment benefit in Spain. Will I be able to transfer this benefit to the UK?

If you are in receipt of a Spanish unemployment benefit, you may continue to receive this benefit in the UK for up to 3 months whilst you look for work. You must ask the Spanish authorities about this before you leave Spain to come back to the UK.

Will I be considered homeless for housing purposes if I still have property in Spain?

You will not be considered homeless in the UK if you have accommodation available to you in Spain which it would be reasonable for you to continue to occupy. You may also be considered to have brought homelessness on yourself, if you have voluntarily given up accommodation in Spain which it would have been reasonable for you to continue to occupy.

Where can I get the leaflets mentioned?

For copies of any of the leaflets mentioned here, get in touch with Jobcentre Plus or The Pension Service. Alternatively, you may wish to access them online:

State Pensions: Your Guide (PM2)

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@over50/documents/digitalasset/dg_180197.pdf

Bereavement Benefits (DWP1005)

http://www.jobcentreplus.gov.uk/JCP/stellent/groups/jcp/documents/websitecontent/dev_016113.pdf

Employment and Support Allowance: Help if you are ill or disabled (DWP1001)

http://www.jobcentreplus.gov.uk/JCP/stellent/groups/jcp/documents/websitecontent/dev_015885.pdf

Jobseeker's Allowance: Help while you look for work (DWP1002)

http://www.jobcentreplus.gov.uk/JCP/stellent/groups/jcp/documents/websitecontent/dev_015482.pdf

Income Support: Help if you're on a low income (DWP1003)

http://www.jobcentreplus.gov.uk/JCP/stellent/groups/jcp/documents/sitestudio/dev_015400.pdf

Pension Credit – Do I qualify and how much could I get' (PC1L)

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@over50/documents/digitalasset/dg_180224.pdf

Housing Benefit and Council Tax Benefit – Help with housing costs' (DWP1015)

http://www.jobcentreplus.gov.uk/JCP/stellent/groups/jcp/documents/websitecontent/DEV_016110.pdf

The Social Fund (DWP1007)

http://www.jobcentreplus.gov.uk/jcp/stellent/groups/jcp/documents/websitecontent/DEV_015606.pdf

Where can I find out more?

For more information, get in touch with Jobcentre Plus or The Pension Service. Contact details can be found below:

Jobcentre Plus

Jobsearch helpline (8am-6pm Monday to Friday, 9am-1pm Saturday)

Phone: 0845 6060 234

Textphone: 0845 6055 255

Calls to this number are charged at local rate.

Benefits claims (8am-6pm Monday to Friday, 9am-1pm Saturday)

Phone: 0800 055 6688

Textphone: 0800 023 4888

Website: <http://www.jobcentreplus.gov.uk/JCP/Aboutus/Ouroffices/index.html>

The Pension Service

Phone: 0845 60 60 265 (8am-8pm Monday to Friday)

Textphone: 0845 60 60 285

Welsh-language service: 0845 60 60 275

Textphone (Welsh language): 0845 60 60 295

International Pension Centre

Phone: 0191 21 87777

Textphone: 0191 21 87280

E-mail: TVP-IPC-Customer-Care@thepensionservice.gsi.gov.uk

Address: Tyneview Park, Newcastle-upon-Tyne, NE98 1BA

Website: http://www.direct.gov.uk/en/DI1/Directories/UsefulContactsByCategory/Over50sContacts/DG_178684

Winter Fuel Payments Helpline

Phone: 0845 915 1515.

Textphone: 0845 601 5613.

Calls to these numbers are charged at local rate.

Website: http://www.direct.gov.uk/en/Pensionsandretirementplanning/Benefits/BenefitInRetirement/DG_10018657

HM Revenue & Customs Child Benefit Office

Phone: 0845 302 1444

Textphone: 0845 302 1474

Website: www.hmrc.gov.uk/childbenefit

Address: PO Box 1, Newcastle-upon-Tyne, NE88 1AA

HM Revenue & Customs Tax Credits

Phone: 0845 300 3900 (open 7 days a week, 8am-8pm)

Textphone: 0845 300 3909.

For the tax credits helpline in Northern Ireland, please call 0845 603 2000, or textphone 0845 607 6078.

Website: www.hmrc.gov.uk/taxcredits

Remember that this fact sheet is a guide only. It is not meant to say exactly what your legal rights are. While we have tried to make sure that the information in this fact sheet is correct at the date shown on the cover, it is possible that there may be incorrect information or some items may be oversimplified. Also, please remember that the information in this fact sheet is likely to become less accurate over time, for example because of changes to the law.

Go to www.direct.gov.uk for the latest and widest range of public service information.