

Disability Law Service

Fighting injustice for disabled people

Can I Take my Benefits Abroad?

Introduction

Different benefits have different rules – some benefits can be taken abroad to certain countries, while others cannot. In this factsheet, we examine the benefits we most often deal with at the Disability Law Service. Whether or not you will be able to keep receiving your benefit when you go abroad will often depend on two factors:

1. **Temporary or Permanent absence:** The first is whether your absence is classed as temporary or permanent.
2. **Country of travel:** The second is your destination – as there are different rules for different countries.

What This Factsheet Will Cover

We will be covering three important topics –

- **The issue of Temporary or Permanent residence.**
- **The different rules for when travelling to a European Economic Area country.**
- **The rules for when travelling to a non-European Economic Area country.**

Good Practice When Traveling Abroad

If you do decide to travel abroad and wish to continue receiving your benefits, then it is very important you inform the **Department for Work and Pensions (DWP)** which oversees your benefit(s). This is because: (a) you can make sure there have been no recent policy or law changes; and (b) that they are happy for you to receive your benefit abroad.

This can save unnecessary problems for yourself and you will be able to iron out any possible problems before you travel.

For details on benefits not mentioned, ring our advice line on **0207 791 9800**. You can also look at DWP's website for further information and to check that you are up to date with any changes in the law.

Warning:

Please make sure you contact the DWP before making any decision as rules change and you do not want to be in another country when the DWP decides to stop your benefits.

Please contact our advice line for further advice and information.

Temporary or Permanent Absence

Temporary absence has different meanings depending on the benefit. Where it is undefined, guidance comes in case law from the courts and the Social Security Upper Tribunal. Every case has to be looked at individually.

The **three most important factors** that will be considered are:

- Your intention when going abroad;
- The length of your absence; **and**
- The reason for your absence.

It is up to you to prove that your absence is temporary – rather than the Benefits Agency having to prove that it is not. The fact that you do not have a return date does not mean that your absence is permanent, but having a return ticket means it should normally be viewed as temporary. **The longer you are away the more difficult it will be to prove it is temporary.**

The nature of an absence can change over time. If you extend the length of your stay, the DWP may consider your absence as permanent. These are the sorts of factors that the DWP will take into account when you contact them.

It is up to the DWP to make a decision as to whether you are eligible to continue receiving benefits. Should you need to appeal a DWP decision, the court or tribunal will also take into account these factors.

If you do travel abroad for a short stay, you might have problems reapplying for your benefits. If you end up staying longer than 26 weeks, depending on the benefit, you may fail the residence tests.

Warning:

Please note, as of July 2016, new rules now apply for the Housing Benefit. The new rules allow your housing benefit entitlement to continue for up to 4 weeks while you are abroad – whatever your reason for travelling, provided the absence is unlikely to exceed 4 weeks.

Entitlements to continue receiving your benefits while abroad for longer than 4 weeks (up to 52 weeks) will depend on your reason for travelling.

Please contact our advice line for further advice and information.

Where are You Travelling To?

European Economic Area Countries

Certain more generous rules apply if you are travelling or moving to a country within the European Economic Area (EEA). A list of countries which are included in the EEA are listed below. If you are moving to one of these countries, then European Community (EC) law will apply. If there is a conflict between EC law and UK social security law, EC law will override the UK law.

More generous rules apply to EEA nationals who have been employed or self-employed; stateless persons; students; or refugees. They also apply to the family members of those three groups who are classed as dependents.

Warning:

Please note, the UK is currently in the process of withdrawing its membership of the EU. This could affect the rules for benefits payments when abroad. We will update this factsheet once the process has been finalised.

Please contact our benefits advice line for further advice and information.

Current EC countries include:

EU Countries*

Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy,

Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the UK (including Gibraltar for this purpose).

*Croatia is currently in the process of becoming an EU member. We will update this list once they become a member.

EEA Countries

Iceland, Liechtenstein, and Norway are all EU member countries. Switzerland is not an EEA country, but participates in the arrangement.

Non-European Economic Area Countries (EEA)

There are a number of reciprocal agreements which allow UK citizens to continue to claim their social security benefits when abroad in a non-EEA country.

This means you may be able to claim certain benefits, whilst living **(permanently)** in the reciprocal agreement country, from that country's government. The scope of the agreements can be difficult to track and you should always check with the DWP.

Please find on the next page a list of the countries with reciprocal agreements and the benefits which are allowed for each country.

Countries with Reciprocal Agreements

	AA	BB	CA	CB	DLA	IIDB	JSA	ESA*	UC	MB*	SP*
Barbados		X		X		X		X			
Bermuda		X				X					
Bosnia and Herzegovina		X		X		X		X			
Canada		X		X							
Croatia		X		X		X		X			
Guernsey		X		X		X		X			
Israel		X		X		X		X			
Jamaica		X				X		X			
Jersey		X		X		X		X			
Kosovo		X		X				X			
Macedonia		X		X		X		X			
Mauritius		X		X		X					
Montenegro		X		X		X		X			
New Zealand		X		X							
The Philippines		X				X					
Serbia		X		X		X		X			
Turkey		X				X		X			
USA		X						X			

- AA – Attendance Allowance
- CC – Carer's Allowance
- BB – Bereavement Benefits
- CB – Child Benefit
- DLA – Disability Living Allowance
- IIDB – Industrial Injuries Disablement Benefit
- JSA – Jobseekers Allowance
- ESA – Employment Support Allowance (Whether you can receive this benefit will depend on whether your employer pays your national insurance contributions).
- UC – Universal Credit
- SP* – Sick pay (Whether you can receive this benefit will depend on whether your employer pays your national insurance contributions).
- MB* – Maternity Benefit (Whether you can receive this benefit will depend on whether your employer pays your national insurance contributions).

Please Note: Please always contact the DWP or your council first before travelling as this table may not always be accurate.

Taking your Benefits Abroad

Statutory Sick Pay (SSP)

Travelling to an EEA Country –

You can get SSP if you are eligible and either of the following apply:

1. You work for a UK employer in the EEA or Switzerland; **or**
2. You work outside the EEA and your employer pays National Insurance contributions for you.

The current government mandated rate for SSP is £89.35 per week. You can get more if your company has a sick pay scheme (or 'occupational scheme').

Please check your employment contract for further details.

Travelling to a non-EEA Country –

As long as the normal conditions of entitlement are met, this benefit can continue to be paid whilst abroad. The only requirement is your employer be present or resident and have a place of business in the UK.

Incapacity Benefit (IB)

Please Note: IB has been replaced by the Employment and Support Allowance (ESA). You'll be reassessed if you're already claiming IB to decide if you are capable of work or eligible for ESA.

If you live abroad and claim IB, your claim will be reviewed to see if you can get ESA instead.

Travelling to an EEA Country –

Generally, short-term IB can be paid in EEA countries if you plan to live in the EEA country or are travelling to obtain medical treatment. You will need to get DWP agreement (by reporting to your local Job Centre Plus) before you leave.

Long term IB (the rate of IB paid after 52 weeks of incapacity) can be paid in EEA countries. Long term benefit is subject to age limits: i.e. it can be claimed up to the age of 65 when it becomes short term Incapacity Benefit.

Travelling to a non-EEA Country –

For both short and long term rates, you can be paid IB for up to **26 weeks** of a temporary absence as long as the DWP has given you permission, and:

- You have been incapable of work for at least six months and remain incapable of work while you are abroad; **or**
- You are going abroad to be treated for an illness or industrial injury, which began before you left the country. Going abroad to recover from an illness, i.e. convalescence, does not count.

For absences abroad longer than a year, IB can still be paid depending on whether there is a reciprocal agreement with the country of your destination.

Severe Disability Allowance (SDA)

Please note: SDA has been replaced by the Incapacity Benefit, which itself has been replaced by the Employment Support Allowance. Although, some individuals may still be receiving SDA.

Travelling to an EEA Country –

SDA, like Long term IB, can be paid in EEA countries.

Travelling to a non-EEA Country –

The rules for SDA are the same as that for Incapacity Benefit (see above).

Personal Independence Payment (PIP) / Disability Living Allowance (DLA)

Please note: The DLA is currently being phased out for the majority of the population and will be replaced by PIP.

Travelling to an EEA Country –

PIP/DLA can be taken abroad (on a **temporary** basis) for up to **13 weeks**; or **26 weeks** if it's for medical treatment.

The rules are different if you decide to move abroad. Claimants of PIP (**Living Component**) and DLA (**Care Component**) can now continue to claim their benefits in another EEA country if:

1. They already live in another EEA country (you don't need to have claimed in the UK before you move) –

To qualify, you must be a habitual resident in the EEA country or Switzerland, and have a genuine link with the UK social security system, (for example, you've lived or worked in the UK).

2. Are going abroad permanently to another EEA country –

To qualify, you or a family member must:

(a) Work in the UK or pay National Insurance in the UK because of work; **(b)** have paid enough National Insurance to qualify for contribution-based benefits; and **(c)** are getting State Pension, Industrial Injuries Benefit, contribution-based ESA or bereavement benefits.

The **Mobility Components** of PIP/DLA **cannot** be claimed when in another EEA country.

Travelling to a non-EEA Country –

PIP/DLA can continue to be paid for up to **13 weeks** (or **26 weeks** if it is for medical treatment) of a temporary absence.

The Care and Living components of PIP/DLA can be paid for longer if the absence:

- is temporary; **and**
- is for the purpose of being treated for an illness or disability which began before you left the country; **and**
- the DWP agrees it is consistent with the proper administration of the Act to pay for longer.

If you are abroad for longer than 26 weeks you will have problems requalifying for the benefit on your return – as you must have been in this country for 26 out of the last 52 weeks to satisfy the residence requirements.

Attendance Allowance (AA)

Travelling to an EEA Country –

The rules for AA are the same as that for PIP/DLA (see above).

Travelling to a non-EEA Country –

The rules for Attendance Allowance are the same as for PIP/DLA (see above).

Carer's Allowance (CA)

Travelling to an EEA Country –

The rules for CA are the same as for PIP/DLA (see above) with one minor difference:

- You can carry on claiming CA abroad (**on a temporary basis**) if you take up to **4 weeks** holiday out of a **26-week** period.

Travelling to a non-EEA Country –

CA can be paid for the first **four weeks** out of a 26-week period of a temporary absence if you go without the person you are caring for.

If you go abroad temporarily to care for that person, then it can be paid for up to 13 weeks as long as they are in receipt of PIP, DLA or Attendance Allowance. You will still have to provide 35 hours of care a week while you are abroad.

Industrial Injuries Disablement Benefit (IIDB)

Travelling to an EEA Country –

IIDB continues to be paid in EEA countries without any time limit as long as you have the entitlement before you leave the UK.

Travelling to a non-EEA Country –

1. Basic Disablement Benefit and Retirement Allowance are payable while you are abroad no matter how long you are away. A claimant does not have to satisfy any residence conditions to claim the benefit. However, it may not be payable if the accident occurred or the prescribed disease was contracted outside Great Britain or the EEA. If a person sustains an industrial accident or contracts a prescribed disease outside Great Britain or the EEA, but during his absence he has paid Class 1 contributions (or Class 2 as a volunteer development worker), the benefit can be claimed on returning to Great Britain.

A claimant who sustains an industrial accident or contracts a prescribed disease in a country with a **reciprocal agreement** may qualify under the terms of that agreement.

2. Constant Attendance Allowance and Exceptionally Severe Disablement Allowance can be paid for the first six months of a temporary absence. This period may be extended by the DWP on agreement.

3. Reduced Earnings Allowance (REA) is paid for the first three months of a temporary absence as long as you are entitled and have claimed before you

go and your absence abroad is not for work purposes. This period may be extended by the DWP on agreement.

State Pensions and Bereavement Benefits (SP&BB)

Travelling to an EEA Country –

These continue to be paid in EEA countries and you are entitled to the annual increases as if you were in the UK.

Travelling to a non-EEA Country –

These are payable while you are abroad no matter how long you are away. If you are living permanently abroad, you will not receive your annual uprating unless the country you are living in has a reciprocal agreement with Great Britain to cover the payment of increases. If you were abroad at the time of your spouse's death, you might be disqualified from a bereavement benefit unless:

- Your late spouse/civil partner was in Great Britain when they died; **or**
- You were in the country at the time of death; **or**
- You returned within 4 weeks of their death; **or**
- Their National Insurance Contribution record is sufficient to satisfy the contribution condition of a widowed parent's allowance or bereavement allowance.

Pension Credit (PC)

Travelling to an EEA Country –

Same rules as that for non-EEA countries (see below).

Travelling to a non-EEA Country –

You are entitled to continue to receive your PC while abroad, providing you do not intend, or are expected, to be away for more than **4 weeks**.

This can be extended for up to **8 or 26 weeks** where:

- **8 weeks:** The absence can be for up to 8 weeks if the absence is in connection with the death of your partner or a close relative.
- **26 weeks:** The absence can be for up to 26 weeks if you are absent because you, your partner or child are receiving medical treatment.

When you do travel, you must expect to return home within the acceptable periods. However, you can have several visits abroad each year – just as long as each visit does not exceed 4 weeks.

Employment Support Allowance (ESA)

Please note: Income based ESA is currently being replaced by Universal Credit (UC). The rules that apply to UC are different to that of ESA, so please be aware of the difference if you are moved onto UC.

Travelling to an EEA Country –

Contributory ESA – depending on your national insurance contributions – can continue to be paid after the assessment phase (sometimes during depending on your circumstances) if it is classed as an ‘invalidity benefit’.

Travelling to a non-EEA Country –

If you are entitled to ESA before you travel, ESA can be taken abroad on a temporary basis:

- For the first **four weeks**; providing your absence is unlikely to exceed 52 weeks.
- For the first **26 weeks**; providing your absence is unlikely to exceed 52 weeks and you are travelling solely to treat (by a qualified practitioner) either:
 - a. Your disease or disablement which is directly linked to your limited capability for work; or
 - b. The disease or disablement of a dependent child who you are accompanying.

You may be able to claim ESA while abroad on a **permanent basis** if your absence is for NHS treatment at a hospital or other facility outside the UK, or you are living with a close family member who is a serving member of the armed forces.

You must always tell the Employment and Support Allowance Centre straight away if you plan to travel abroad or your benefit may be affected.

Income Support (IS)

Please note: IS is currently being replaced by Universal Credit (UC). The rules that apply to UC are different to that of IS, so please be aware of the difference if you are moved onto UC.

Travelling to an EEA Country –

Same rules as that for non-EEA countries (see below).

Travelling to a non-EEA Country –

You must be entitled to IS before you go and your absence must be temporary and you must expect it to be for less than one year. You must also continue to fulfil the other criteria for IS (e.g. be incapable to work or a single parent).

a) **Income support for four weeks** – You will be entitled to receive IS for up to four weeks if you meet the following conditions:

1. You are not in one of the following groups of people who can claim IS:

- You are in education; **or**
- You are involved in a trade dispute; **or**
- You are entitled to Statutory Sick Pay; **or**
- You are appealing against a decision that you are not incapable or work.

2. If you do not fit into one of the groups above, one of the following conditions must also apply:

- You travel to Northern Ireland. (After four weeks you must claim IS from the Northern Ireland Benefits Agency); **or**
- You and your partner are both abroad and s/he qualifies for a pensioner, enhanced pensioner, higher pensioner, disability or severe disability premium; **or**
- You have been continually incapable of work for 364 days; **or**
- You have been continually incapable of work for 28 weeks and are either: terminally ill; or receiving the highest rate of DLA care component; or the enhance rate of the daily living component of PIP or armed forces independent payment; **or**
- You are incapable of work and going abroad specifically for treatment by a qualified person and the Benefits Agency agrees that this rule applies to you.

(Periods of incapacity, separated by less than eight weeks, can be added together to make the 364 days or 28 weeks. This means two or more periods of incapacity are treated as continuous if the break between them is not more than 56 days each time.)

- b) **Income support for eight weeks** – You will be entitled to IS for eight weeks (providing it is unlikely to exceed 52 weeks) if you are taking a child abroad specifically to receive medical treatment from an appropriately qualified person. The child must count as a family member.

Partner abroad:

If you claim IS, and you are in the UK while your partner is abroad, the IS will include benefits for your partner for the first **four weeks** (or eight weeks if they meet the conditions for the eight week rule). After this benefits will reduce. Your partner's income and capital will affect your IS entitlement unless you do not intend to resume living together or the absence is likely to exceed 52 weeks.

Universal Credit (UC)

Travelling to an EEA Country –

Same rules as that for non-EEA countries (see below).

Travelling to a non-EEA Country –

UC can continued to be paid while abroad on a **temporary** basis for:

1. **one month:**

- If the absence does not exceed (or is not expected to exceed) one month.

2. **two months:**

- If your absence is in connection with the death of your partner or child, or a close relative of yours or your partner or child, and it would be unreasonable for you to return to Great Britain within the first month.

3. **six months:**

- if the absence does not exceed (or is expected to exceed) six months, and either because:
 - a. you are a mariner or continental shelf worker; **or**
 - b. your absence is solely in connection with the medically approved care, convalescence or treatment of you, your partner or child.

Housing Benefit (HB)

Please note: Housing Benefit is currently being replaced by Universal Credit (UC). The rules that apply to UC are different to that of Housing Benefit, so please be aware of the difference if you are moved onto UC.

Travelling to an EEA Country –

Same rules as that for non-EEA countries (see below).

Travelling to a non-EEA Country –

Please note: New government rules were brought into force on the 28th of July, 2016. The new rules in application are less generous than before, and as such, you need to be conscious of this when planning your travels abroad.

New Rules (going abroad after the 28/7/16):

You will be entitled to HB for up to **4 weeks** if:

- Your absence is temporary;
- Is unlikely to exceed 4 weeks;
- You do not sub-let your home; **and**
- You intend to return to it.

This may be extended to **26 weeks** if:

- You or your child or your partner is abroad to receive approved medical treatment; **or**
- You are caring for someone who is sick in the UK or abroad and the care you are providing is medically approved; **or**
- You are caring for a child whose parents or guardian is temporarily absent because of medical treatment; **or**
- You are a student eligible for HB; **or**
- You are undertaking a Government approved training course.

If you have been in receipt of Income Support and your Income Support stops you will need to reapply for HB. If you have another home abroad which you and members of your family (members of your household) occupy, then your absence from the UK could affect your entitlement for HB if your absences are long enough and regular to mean that your main home is not in the UK. For armed forces personnel and their family members, special and more favourable rules often apply. Contact our Welfare Benefits Officer for further details.

Council Tax Reduction (CTR)

Travelling to an EEA Country –

Same rules as that for non-EEA countries (see below).

Travelling to a non-EEA Country –

You will be entitled to CTR for up to **13 weeks** if:

- Your absence is temporary;
- Is unlikely to exceed 13 weeks;
- You do not sub-let your home; **and**
- You intend to return to it.

This may be extended to **52 weeks** if:

- You or your child or your partner is abroad to receive approved medical treatment; **or**
- You are caring for someone who is sick in the UK or abroad and the care you are providing is medically approved; **or**
- You are caring for a child whose parents or guardian is temporarily absent because of medical treatment; **or**
- You are a student eligible for HB; **or**
- You left your home because of violence and you are not entitled to HB for your new accommodation; **or**
- You are undertaking a Government approved training course.

If you have been in receipt of Income Support and your Income Support stops you will need to reapply for CTR. Contact our Welfare Benefits Officer for further details.

Legal Disclaimer

Although great care has been taken in the compilation and preparation of this Factsheet to ensure accuracy, DLS cannot accept responsibility for any errors or omissions. All information provided is for education / informative purposes, and is not a substitute for professional advice.

Any links to external websites have been carefully selected, but are provided without any endorsement of the content of those sites.

For further information and advice, please contact our helpline by calling 0207 791 9800.

Email: advice@dls.org.uk

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