

Theresa May considers curbs on EU migration

Home secretary believes reforms could be made to free movement of EU workers, in part to reverse court judgments

Patrick Wintour, political editor
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Theresa May wants to review the way EU rules allow partners of EU citizens to reside in the EU Photograph: Peter Byrne/AFP/Getty Images

Theresa May is examining wide-ranging curbs on the European Union's free movement of workers, including access to the UK for dependants of EU citizens, and fresh curbs on access to benefits for EU citizens.

The home secretary believes she can make changes to one of the central pillars of the EU with the support of other member states such as the Netherlands, although Foreign Office sources are concerned that any curbs could lead to reprisals for UK citizens living abroad, such as UK pensioners in Spain.

May's review is probably the most politically striking move among a raft of EU initiatives floated by David Cameron on Sunday in an attempt to mollify his eurosceptic backbenchers, including a potential veto of the next EU budget. He said on the BBC's Andrew Marr programme: "People in Europe know I mean what I say ... they know I'm capable of saying no."

He is also backing long-term plans to introduce a two-tier EU budget in which single-currency member states contribute more than those outside the euro.

The government has already announced a review of all EU competences ahead of negotiations with the EU that might lead to a referendum or endorsement at an election. Cameron refused to be drawn on the date of such a referendum.

He said there would be no in/out referendum, because the speed of change in Europe meant that the UK needed to reach a fresh settlement with Brussels that could then be

put to the public after the next general election.

Cameron described Ukip as a complete waste of time, but he realises that he needs to slow the drain of anti-European sentiment to that party with more than just rhetoric.

It had been thought there was little momentum to review the free movement of EU workers on the basis that it is such a central pillar of the EU's founding principles. But May believes there are reforms that could be made in part to reverse previous European court of justice judgments that have in effect redefined free movement as available to citizens rather than merely workers.

May has also been struck by the lack of high-quality academic evidence on why members of EU states often choose Britain to seek work and reside in as opposed to other EU countries.

The EU has been in a long legal dispute with the UK over the UK's habitual residence test, which limits benefit claims by new arrivals. The work and pensions secretary, Iain Duncan Smith, at one point last year said that if the UK test was abandoned, the cost to the UK could be more than £2bn a year; he later revised this figure to £155m.

At the moment, citizens of European economic area (EEA) countries who want to claim unemployment benefit have to pass an habitual residence test, proving they intend to settle in the UK or have a legal right to reside in the country. Migrants without a job who are not a dependent of a worker or self-employed person, or are judged to be a burden on public funds, currently fail the test. Access to other social security benefits are subject to different tests.

May wants to review the way EU rules allow partners of EU citizens to reside in the EU. Once they enter the territory of the host member state, non-EU family members enjoy the same right of residence as the person they are accompanying, provided they hold a valid passport. The free movement directive extends the right to equal treatment – including access to social assistance – to non-EU family members who have the right of residence or permanent residence in the host member state.

May is struggling to reach her aim of cutting the overall number of immigrants to the UK to below 100,000, partly due to her inability to slap any direct controls on EU migrants. EU migration accounted for 27% of total UK net immigration in 2010, a majority of which came from the eastern European states that joined the EU in 2004.

Even eurosceptic groups such as [Open Europe](#) have accepted that the evidence overwhelmingly suggests migrants from EU countries have come to the UK in search of work rather than to take advantage of the UK's welfare system.

But equally, Ed Miliband has argued in recent months that EU immigration can increase competition at the low-skill end of the labour market, driving down wages and leaving younger workers struggling to find work.

Non-EU family members have the right to obtain entry visas to the EU, where required, through an accelerated procedure.

The Home Office is also looking at tighter transitional controls on new member states. Romania and Bulgaria are due to be given full free movement next year, after a seven-year pause in which restrictions have been imposed.

It is estimated there were just over two million nationals of other EU member states living in the UK in the year to March 2011.

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