
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 345

SOCIAL SECURITY

The Social Security (Switzerland) (Further provision in respect of Scotland) Order 2021

Made - - - - 29th September 2021
Laid before the Scottish
Parliament - - - - 1st October 2021
Coming into force in accordance with article 1

At the Court at Balmoral, the 29th day of September 2021
Present,
The Queen's Most Excellent Majesty in Council

This Order is made under the powers in section 179(1)(a) and (2) of the Social Security Administration Act 1992⁽¹⁾ which provide that, for the purpose of giving effect to any agreement with the government of a country outside the United Kingdom providing for reciprocity in specified matters, Her Majesty may by Order in Council make provision for modifying or adapting specified legislation in its application to cases affected by such agreement.

At London on 9 September 2021 a Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation⁽²⁾ (“the Convention”) was signed on behalf of the respective Governments. The Convention makes provision for reciprocal arrangements between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation in relation to social security following the United Kingdom's withdrawal from the European Union.

Article 72 of the Convention provides that the Convention shall enter into force on the first day of the third month following the date of receipt of the later of the States' written notifications that they have complied with all statutory and constitutional requirements for the entry into force of the Convention. Article 73 provides that, pending entry into force of the Convention, the States may agree to provisionally apply the Convention by an exchange of notes through diplomatic channels. Provisional application of the Convention shall take effect on the day following the later of the States' notes.

(1) 1992 c. 5. Section 179(1) has been amended by [S.I. 2020/1508](#). Legislative competence for some welfare benefits was devolved to the Scottish Parliament by Part 3 of the Scotland Act 2016 ([c. 11](#)), which inserted exceptions into the Scotland Act 1998 ([c. 46](#)), schedule 5, Part 2, Section F1. This devolution is subject to transitional arrangements set out in [S.I. 2017/444](#). By virtue of section 27(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)), the function of Her Majesty of making an Order in Council, so far as the function is exercisable within devolved competence, is exercisable by a Scottish Statutory Instrument.

(2) 2021 CP 530.

In order to give effect to the Convention, therefore, Her Majesty, in exercise of the powers conferred on Her by section 179(1)(a) and (2) of the Social Security Administration Act 1992 and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Social Security (Switzerland) (Further provision in respect of Scotland) Order 2021 and comes into force on—

- (a) the day following the later of the States’ notes referred to in Article 73 (provisional application) of the Convention set out in the Schedule to the 2021 Order(3), or
- (b) where the Convention has not been applied provisionally as provided for in Article 73 (provisional application), the first day of the third month following the date of receipt of the later of the States’ written notifications referred to in Article 72 (entry into force) of the Convention set out in the Schedule to the 2021 Order(4).

(2) In this Order “the 2021 Order” means the Social Security (Switzerland) Order 2021(5).

Application of article 2 of the 2021 Order

2. Paragraphs (1) and (2) of article 2 of the 2021 Order (modification of legislation) apply insofar as—

- (a) it is within the legislative competence of the Scottish Parliament to make the modification paragraph (1) describes, and
- (b) the 2021 Order does not make that modification.

Application of article 3 of the 2021 Order

3. Article 3 of the 2021 Order (variation of order) applies insofar as—

- (a) it is within the legislative competence of the Scottish Parliament to make the variation article 3 describes, and
- (b) the 2021 Order does not make that variation.

Ceri King
Deputy Clerk of the Privy Council

(3) The date from which the Convention is provisionally applied will be published on the relevant page on GOV.UK which can be found at: <https://www.gov.uk/>.

(4) The date on which the Convention enters into force will be published on the relevant page on UK Treaties Online which can be found at: <https://www.gov.uk/guidance/uk-treaties>.

(5) S.I. 2021/1088.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the modification of social security legislation, so far as it relates to devolved matters, so as to give effect to the Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation, signed at London on 9 September 2021 (“the Convention”). It does so by applying the modification provided for by article 2 of the Social Security (Switzerland) Order 2021 (“the 2021 Order”), where the legislation being modified in the 2021 Order relates to a matter which falls within the legislative competence of the Scottish Parliament, and in relation to which competence for the exercise of functions has transferred to the Scottish Ministers. The provisions of the Convention to which article 2 of the 2021 Order applies are set out in the schedule of the 2021 Order.

This Order also varies the Family Allowances, National Insurance and Industrial Injuries (Switzerland) Order 1969 (“the 1969 Order”) in accordance with Article 77 of the Convention. It does so by applying the modifications provided for by article 3 of the 2021 Order, where the provisions of the 1969 Order relate to a matter which falls within the legislative competence of the Scottish Parliament, and in relation to which competence for the exercise of functions has transferred to the Scottish Ministers. Article 77 of the Convention is set out in the schedule of the 2021 Order.

This Order has effect from the date on which the Convention is provisionally applied in accordance with Article 73 of the Convention, or, if not provisionally applied, from the date on which the Convention enters into force in accordance with Article 72. Article 72 provides that the Convention shall enter into force on the first day of the third month following the date of receipt of the later of the States’ written notifications that they have complied with all statutory and constitutional requirements for entry into force of the Convention. Article 73 provides that, pending entry into force of the Convention, the States may agree to provisionally apply the Convention by an exchange of notes through diplomatic channels. Provisional application of the Convention shall take effect on the day following the later of the States’ notes. Articles 72 and 73 of the Convention are set out in the schedule of the 2021 Order.

This Order does not impose any costs on business, charities or the voluntary sector. Accordingly, no Business and Regulatory Impact Assessment has been prepared.