

2015 No. 281

SOCIAL SECURITY

The Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations (Northern Ireland) 2015

Made - - - - *24th June 2015*

Coming into operation - *15th July 2015*

The Department for Social Development is designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to social security(b).

Accordingly the Department for Social Development makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) Regulations (Northern Ireland) 2015 and shall come into operation on 15th July 2015.

(2) For the purposes of these Regulations—

“EEA national” means a national of an EEA state or Switzerland;

“relevant EU Regulation” means—

- (a) Council Regulation (EC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community(c); or
- (b) Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems(d).

Modifications of the Australia Order, Canada Order and New Zealand Order

2. Regulation 3 applies where—

- (a) a person is an EEA National;
- (b) that person is habitually resident in an EEA state or Switzerland;
- (c) that person can demonstrate a genuine and sufficient link to the United Kingdom social security system; and

(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7)

(b) See S.I. 2010/2473

(c) OJ L 149, 5.7.71, p2 (OJ/SE) 1st series 1971 vol II p416

(d) OJ No L 166.30.4.04, pl

(d) a relevant EU Regulation applies.

3.—(1) The legislation mentioned in Article 2 of the Social Security (Australia) Order (Northern Ireland) 1992(a) is modified in relation to that person to give effect to the Agreement in Schedule 1 to that Order as if it read as follows—

- (a) in Article 3(1), for “that part of the territory” there were substituted “the territory comprising the EEA states and Switzerland” the first time it occurs, and “the relevant part of the territory of the United Kingdom” the second time it occurs;
- (b) in Article 3(5), for “the United Kingdom” there were substituted “the area comprising the EEA States and Switzerland”;
- (c) in Article 5(1), for “in that part of the territory” there were substituted “in the territory comprising the EEA states and Switzerland” and for “of that part of the territory” there were substituted “of the relevant part of the territory of the United Kingdom”; and
- (d) in Article 5(4), for “the United Kingdom” there were substituted “the area comprising the EEA states and Switzerland”.

(2) The legislation mentioned in Article 2 of the Social Security (Canada) Order (Northern Ireland) 1995(b) is modified in relation to that person to give effect to the Schedule to the letter reproduced in Schedule 1 to that Order as if it read as follows—

- (a) in paragraph (9)(a), for “resident in the United Kingdom” there were substituted (in both places it appears) “resident in the territory comprising the EEA states and Switzerland”;
- (b) in paragraph (11), for “resident in the United Kingdom” there were substituted “resident in the territory comprising the EEA states and Switzerland”.

(3) The legislation mentioned in Article 2 of the Social Security (New Zealand) Order (Northern Ireland) 1983(c) is modified in relation to that person to give effect to the Convention set out in the Schedule to the Order as if it read as follows—

- (a) in Article 8(1), for “resident in the United Kingdom” and “resident there” there were substituted “resident in the territory comprising the EEA states and Switzerland”;
- (b) in Article 9(1), for “the United Kingdom” there were substituted “the territory comprising the EEA states and Switzerland”;
- (c) in Article 9(2), for “or resident in, the United Kingdom” there were substituted “or resident in, the territory comprising the EEA States and Switzerland”;
- (d) in Article 9(3), for “or resident in, the United Kingdom” there were substituted “or resident in, the territory comprising the EEA states and Switzerland”;
- (e) in Article 9(6) for “leaves the United Kingdom” to the end there were substituted “leaves the area comprising the EEA states and Switzerland, unless that person is usually resident in that area and that person’s absence is only temporary.”;
- (f) in Article 11(1), for “the United Kingdom” there were substituted “the territory comprising the EEA states and Switzerland”;
- (g) in Article 11(2), for “or resident in, the United Kingdom” there were substituted “or resident in, the territory comprising the EEA states or Switzerland” and for “her arrival in the United Kingdom” there were substituted “her arrival in the territory comprising the EEA states and Switzerland”;
- (h) in Article 11(3), for “or resident in, the United Kingdom” there were substituted “or resident in, the territory comprising the EEA states or Switzerland”; and

(a) S.R. 1992 No. 269; revoked with effect from 1st March 2001 by Article 3 of S.R. 2000 No. 407 subject to the savings provisions referred to in Article 2(2) and treated as continuing in operation to the extent provided for by section 299 of the Pensions Act 2004 (c. 35)

(b) S.R. 1995 No. 405

(c) S.R. 1983 No. 432

- (i) in Article 11(4) for “leaves the United Kingdom” to the end there were substituted “leaves the area comprising the EEA states and Switzerland, unless that person is usually resident in that area and that person’s absence is only temporary.”.

Revocation

4. The Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) (Northern Ireland) Regulations 2015(a) are revoked.

Sealed with the Official Seal of the Department for Social Development on 24th June 2015

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) S.R. 2015 No.207

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the operation of the Social Security (Australia) Order (Northern Ireland) 1992 (“the Australia Order”), the Social Security (Canada) Order (Northern Ireland) 1995, and the Social Security (New Zealand) Order (Northern Ireland) 1983 which give effect in Northern Ireland to reciprocal agreements on social security made between the Governments of those respective countries and the Government of the United Kingdom.

Those reciprocal agreements include provisions applying to persons resident in the United Kingdom who had previously been resident in Australia, Canada or New Zealand. These specify that, for the purpose of determining entitlement to a retirement pension in the United Kingdom, legislation mentioned in the agreements is modified so that those persons are treated as if they (or, in some cases their spouse) had paid national insurance contributions in the United Kingdom during the periods in which they were resident in Australia, Canada or New Zealand. The agreement with New Zealand also contains similar provisions for widows and orphans benefits, and the agreement with Australia contains similar provisions for widows benefits.

The Australia Order was revoked in 2001, with savings, and continues to have effect to the extent provided for by virtue of section 299 of the Pensions Act 2004.

In accordance with Article 21 of the Treaty on the Functioning of the European Union these Regulations ensure that residence in the EEA territories and Switzerland is treated as residence in the UK for the purposes of the agreements in the case of persons who (a) are an EEA or Swiss national (b) fall within the personal scope of Regulation (EC) No 1408/71 or Regulation (EC) No 883/04 on the coordination of social security systems (c) are habitually resident in an EEA State or Switzerland and (d) have a genuine and sufficient link to the UK.

Regulation 4 revokes the Social Security (Application of Reciprocal Agreements with Australia, Canada and New Zealand) (EEA States and Switzerland) (Northern Ireland) Regulations 2015.

© Crown copyright 2015

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£4.25

N6714 06/2015 456714T 19585

ISBN 978-0-337-99833-1



9 780337 998331