

**2020 No. 1597**

**SOCIAL SECURITY**

**The Social Security (Norway) Order 2020**

*Made* - - - - *16th December 2020*

*Coming into force* - - *1st January 2021*

At the Court at Windsor Castle, the 16th day of December 2020

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Social Security (Norway) Order 1991(a) (hereinafter referred to as the "Principal Order") made in pursuance of section 143 of the Social Security Act 1975(b) and section 15 of the Child Benefit Act 1975(c), it was ordered that these Acts be modified to such extent as may be required to give effect to the provisions contained in the Convention(d) and the Protocol set out in the Schedule to the Principal Order (hereinafter referred to as the "Principal Convention"), so far as the same relates to England, Wales and Scotland:

And Whereas by the Social Security (Norway) Order 1992(e) (hereinafter referred to as the "Amending Order") made in pursuance of section 179 of the Social Security Administration Act 1992(f), it was ordered that the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992(g) be modified, and the Principal Order varied, to such extent as may be required to give effect to the provisions contained in the Agreement contained in the Notes exchanged on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway on 5th November 1992(h) which amended the Principal Convention as set out in the Schedule to the Amending Order:

And Whereas the Principal Convention was further amended by the Agreement(i) contained in the Letters exchanged on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway on 7th December 2020 (which Letters are set out in the Schedule to this Order):

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(a) S.I. 1991/767, relevant amending instruments are S.I. 1992/3212, 1995/767, and 2005/2765.  
(b) 1975 c. 14. This provision is now replaced by section 179 of the Social Security Administration Act 1992 c. 5.  
(c) 1975 c. 61. This provision is now replaced by section 179 of the Social Security Administration Act 1992.  
(d) 1991 Cm 1331.  
(e) S.I. 1992/3212.  
(f) 1992 (c. 5). Section 179 has been relevantly amended by paragraph 2(2) of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).  
(g) 1992 c. 4.  
(h) Cm 2107.  
(i) The Agreement is laid before Parliament in the Treaty Series for information.

And Whereas by section 179(1) and (2) of the Social Security Administration Act 1992, it is provided that Her Majesty may by Order in Council make provision for modifying or adapting specified legislation in its application to cases affected by agreement with the Governments of countries outside the United Kingdom providing for matters specified in that section:

Now therefore, Her Majesty, in pursuance of section 179(1) 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 and commencement**

**1.** This Order may be cited as the Social Security (Norway) Order 2020 and comes into force on 1st January 2021.

### **Modification of legislation and variation of the Principal Order**

**2.**—(1) Subject to paragraph (3), the legislation specified in paragraph (2) is modified, and the Principal Order is varied, to the extent required to give effect to the Principal Convention as amended by the Agreement set out in the Schedule to this Order, as it applies to England, Wales and Scotland.

(2) The legislation specified in this paragraph is—

- (a) the Social Security Administration Act 1992(a);
- (b) the Social Security Contributions and Benefits Act 1992;
- (c) the Jobseekers Act 1995(b);
- (d) Chapter 2 of Part 1 of the Social Security Act 1998(c);
- (e) Part 2 of the Social Security Contributions (Transfer of Functions, etc) Act 1999(d);
- (f) the State Pension Credit Act 2002(e);
- (g) Part 1 of the Welfare Reform Act 2007(f);
- (h) Parts 1 and 4 of the Welfare Reform Act 2012(g);
- (i) Parts 1 and 5 of the Pensions Act 2014(h);
- (j) the following as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018(i)—
  - (i) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;
  - (ii) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems;
- (k) regulations within the scope of section 179(5)(j) of the Social Security Administration Act 1992.

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(a) No modifications are made in respect of community charge benefits, payments out of the social fund, Christmas bonus, statutory sick pay, or statutory maternity pay because the power in section 179(4)(b)(i)-(v) of the Social Security Administration Act 1992 excludes these benefits from the scope of the power.

(b) 1995 c. 18.

(c) 1998 c. 14.

(d) 1999 c. 2.

(e) 2002 c. 16.

(f) 2007 c. 5.

(g) 2012 c. 5.

(h) 2014 c. 19.

(i) 2018 c. 16. Section 3 is to be amended by section 25(2) of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Regulation 883/2004 and 987/2009 as they form part of domestic law under section 3 of the European Union (Withdrawal Agreement) Act 2020 are revoked (with savings) by S.I. 2020 XXXX.

(j) Subsection (5) of section 179 has been amended by paragraph 70(4) of Schedule 2 to the Jobseekers Act 1995; paragraph 21(4) of Schedule 2 to the State Pension Credit Act 2002; paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c. 21);

(3) Paragraph (1) does not modify legislation in so far as it would be within the legislative competence of the Scottish Parliament to make such modifications, unless regulation 3 of the Scotland Act 2016 (Transitional) Regulations 2017<sup>(a)</sup> applies to functions conferred on a Minister of the Crown in respect of that devolved competence.

(4) Paragraph (1) also modifies Part 2 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 so far as such provision relates to Northern Ireland<sup>(b)</sup>.

### **Revocations**

**3.** The Social Security (Norway) Order 1992<sup>(c)</sup> is revoked<sup>(d)</sup>.

*Richard Tilbrook*  
Clerk of the Privy Council

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paragraph 10(29)(c) of Schedule 3 to the Welfare Reform Act 2007; paragraph 27(4) of Schedule 2, to the Welfare Reform Act 2012 and paragraph 25(4)(a) and (b) of Schedule 12, and paragraph 33(4)(a) and (b) of Schedule 16, to the Pensions Act 2014 and by regulation 3 of S.I. 2011/2425.

(a) S. I. 2017/444.

(b) S.I. 1999/671.

(c) S.I. 1992/3212.

(d) The Agreement set out in the Schedule to this Order renders the Social Security (Norway) Order 1992 (S.I. 1992/3212) redundant.

## SCHEDULE

Article 2

Exchange of Letters between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway for the continued application and amendment of the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway, and the Protocol concerning Medical Treatment, done at Oslo on 19 June 1990

HE Ms Ine Eriksen Søreide  
Minister of Foreign Affairs of the Kingdom  
of Norway

07 December 2020

Your Excellency,

I have the honour to refer to the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway, signed at Oslo on 19 June 1990, as amended by an exchange of Notes in 1992 (hereinafter referred to as "the Convention") with integrated Protocol Concerning Medical Treatment of 19 June 1990 (hereinafter referred to as "the Protocol") and to recent discussions between Her Majesty's Revenue and Customs, the Department of Work and Pensions and the Department of Health and Social Care for the United Kingdom and the Ministry of Labour and Social Affairs, the Ministry of Health and Care Services and the Ministry of Children and Family affairs for Norway concerning necessary amendments to the Convention and the Protocol.

In these discussions, our two Governments have considered that the Convention and the Protocol have been superseded by the laws of the European Union ("EU") on the same subject-matter, as regards persons to whom those laws were at that date or subsequently became applicable, which applied as between the United Kingdom and the Kingdom of Norway by virtue of the Agreement on the European Economic Area done at Porto on 2 May 1992.

Our two Governments have further noted that, following the departure of the United Kingdom from the European Union, EU law will cease to apply to the United Kingdom at the end of the transition period on 31 December 2020. The United Kingdom and the Kingdom of Norway, however, wish to maintain and develop their strong relationship in the fields of social security at the end of this period.


Consequently, the United Kingdom and the Kingdom of Norway have agreed that the Convention and the Protocol are to apply between them, with particular provision in respect of the Isle of Man and the Island of Jersey, subject to the amendments set out in the Annex to this Letter ("this Agreement"). I therefore have the honour to propose, on behalf of the Government of the United Kingdom, that the provisions of the Convention and the Protocol, as amended in the Annex to this Letter, shall have legal force and effect as between the United Kingdom and the Kingdom of Norway and shall replace any and all prior versions of the Convention and the Protocol.

I have further the honour to propose that this Agreement shall enter into force on 1 January 2021.

If the foregoing proposals are acceptable to the Government of the Kingdom of Norway, I have the honour to propose that this Letter together with your Excellency's reply shall constitute an

agreement between our Governments which shall enter into force in accordance with the provisions set out above.

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

A handwritten signature in cursive script, appearing to read 'R. Wood', followed by a period.

Mr Richard Wood  
British Ambassador to Norway

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## ANNEX

### Amendments to the Convention

1. For Article 1(b) substitute:

"(b) "competent authority" means the authority responsible for the social security schemes in all or part of the territory of each Party; that is to say, in relation to the United Kingdom, the Secretary of State for Work and Pensions for Great Britain, Her Majesty's Revenue and Customs, the Department for Communities for Northern Ireland, the Treasury for the Isle of Man, or the Minister for Social Security for the States of Jersey as the case may require and, in relation to Norway, the Ministry responsible for application of the legislation of Norway;"

2. At Article 1(f) after "benefit in question" insert "and as regards the right to pensions, any period completed under the legislation of Norway which may be used to acquire the right to a pension;"

3. For Article 1(o) substitute:

"(o) "survivors' benefit" means, in relation to the United Kingdom, widow's allowance, widow's payment, widowed mother's allowance and widow's pension payable under the legislation of the United Kingdom and, in relation to Norway, a pension and transitional benefit to a surviving spouse or civil partner payable under the legislation of Norway;"

4. At Article 1(p) for "United Kingdom" substitute "Isle of Man or Island of Jersey".

5. Delete Article 1(q).

6. For Article 1(w) substitute:

"(w) "social assistance" means, in relation to the United Kingdom, any benefit which is considered to be social assistance in Great Britain, Northern Ireland, the Isle of Man and the Island of Jersey;"

7. For Article 1(z) substitute:

"(z) "child benefit" means, in relation to the United Kingdom, child benefit and family allowance payable under the legislation of the Isle of Man or Island of Jersey"

8. Delete Article 1(aa), (bb) and (cc).

9. For Article 1(3) substitute:

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"(3) Subject to Article 1(4), the Convention applies to Great Britain, Northern Ireland, the Isle of Man and to the Island of Jersey and references to "the United Kingdom" or to "territory" in relation to the United Kingdom shall be construed accordingly"

10. At Article 1, after paragraph (3) insert new paragraph (4):

"(4) Articles 12-14 (Sickness Benefit and Maternity Benefit), 15 (Unemployment Benefit), 16 (Invalidity Pension), 21-23 (IIDC), 24-25 (Death Grant), 26 (Orphan's Benefit) and 27 (Child Benefit), shall only apply to the Isle of Man and to the Island of Jersey. Any reference to "territory" in relation to these Articles means, in relation to the United Kingdom, only the Isle of Man and Island of Jersey. Any reference to "legislation" in relation to these Articles means, in relation to the United Kingdom, only that legislation in effect in the Isle of Man and Island of Jersey.

11. At Article 2(1)(a)(iv) for "the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament)" substitute "only in so far".

12. At Article 2, after paragraph (5) insert new paragraph (6);

"(6) This Convention and the supplementary Protocol is without prejudice to any agreement on social security with the European Union; the UK EEA EFTA Separation Agreement; any previous agreement between the Parties regarding social security; or, any convention on social security either Party has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph (1) of this Article for the purposes of giving effect to such a convention."

13. At Article 2, after new paragraph (6) insert new paragraph (7);

"(7) This Convention shall not affect:

- (a) any award of benefit, pension or allowance made prior to 1 January 2021 under the agreements set out at paragraph (6);
- (b) any claim to a benefit, pension or allowance made under the agreements set out at paragraph (6) but not determined at 1 January 2021; or,
- (c) any claim to a benefit, pension or allowance under the agreements set out at paragraph (6) at 1 January 2021 but only where that claim relates to entitlement to such benefit, pension or allowance for a period prior to 1 January 2021."

14. Delete Article 2A.

15. At Article 4(1) insert ", in the United Kingdom" between "would be entitled to receive" and "an old age pension" and insert "and in the Isle of Man and Island of Jersey an" between "survivors' benefit" and "invalidity pension".

16. At Article 4(2) for "United Kingdom" substitute "Isle of Man and Island of Jersey."

17. At Article 10(3) and 10(4) for "United Kingdom" substitute "Isle of Man or Island of Jersey".

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18. For Article 14 substitute:

"ARTICLE 14

Where, but for the provisions of this Article, a person would be entitled to receive sickness benefit or maternity allowance under the legislation of the Isle of Man, Island of Jersey and Norway for the same period whether by virtue of this Convention or otherwise that benefit or allowance shall be granted only under the legislation under which the person was last insured before entitlement arose. Nothing in this Article shall allow for the payment of Isle of Man or Island of Jersey statutory sick pay or statutory maternity pay outside the territory of the Isle of Man or Island of Jersey."

19. At Article 16, in paragraphs (2)(a), 2(b) and (4) for "United Kingdom" substitute "Isle of Man or Island of Jersey".

20. Before Article 17 insert: "OLD AGE PENSION AND SURVIVORS' BENEFITS UNDER THE LEGISLATION OF THE UNITED KINGDOM".

21. At Article 17(1) delete "of one Party or under the legislation" and for "a Party" substitute "the United Kingdom".

22. For Article 17(2) substitute:

"(2) For the purpose of determining entitlement to additional pension payable under the legislation of the United Kingdom, no account shall be taken of any contribution period completed under the legislation of Norway and for the purposes of this Article and Article 18 of this Convention, additional pension under United Kingdom legislation shall be treated as a separate benefit to which the provisions of Article 18 do not apply."

23. For Article 18(1) substitute:

"(1) Where a person is not entitled to an old age pension under the legislation of any one part of the territory of the United Kingdom, but has completed an insurance period under that legislation of at least one year, any insurance period which he has completed under the legislation of Norway shall be treated as if it were an insurance period completed under the legislation of the United Kingdom for the purposes of determining his entitlement to an old age pension under that legislation. The amount of the pension shall be calculated in accordance with paragraphs (2) to (5) of this Article."

24. At Article 18(2)(b) for "that Party" substitute "the United Kingdom".

25. Delete Article 18(3).

26. For Article 18(4) substitute:

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"(3) For the purposes of the calculation in paragraph (2) of this Article, "pension" shall include any increase of benefit payable in respect of a dependent child."

27. Delete Article 18(6).

28. For Article 19 substitute:

"Where a person does not simultaneously satisfy the conditions for entitlement to an old age pension under the legislation of both Parties, his entitlement under the legislation of one Party shall be established as and when he satisfies the conditions laid down by the legislation of that Party. The provisions of:

(a) Article 18 of this Convention shall be applied where there is otherwise no entitlement under the provisions of Article 17 of this Convention to an old age pension under the legislation of the relevant Party;

or

(b) Article 20A to Article 20D of this Convention shall be applied where there is otherwise no entitlement under the legislation of Norway,

as appropriate in the circumstances, and his entitlement shall be determined afresh when the conditions under the legislation of the other Party are satisfied."

29. At Article 20 insert "under the legislation of the United Kingdom" after "survivors' benefit".

30. Delete Articles 20(2), 20(3) and 20(4).

31. After Article 20 insert the following articles to the Convention:

"OLD AGE PENSION AND SURVIVORS' BENEFITS UNDER THE LEGISLATION OF NORWAY

Article 20A

For the acquisition, retention or recovery of the right to old-age pension or survivor's benefit the insurance periods completed pursuant to the legislation of either Party concerning old-age pension or survivor's benefit will be aggregated, when necessary and to the extent that those periods do not overlap, with the insurance periods completed pursuant to the legislation of the other Party.

Article 20B

Where a person has completed at least five years of insurance under the legislation of Norway, or one year if insured while employed or self-employed in Norway, prior to the claim for pension, insurance periods completed under the legislation of the United

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Kingdom shall be taken into account to determine entitlement to old-age pension and survivor's benefit provided they do not coincide. To become entitled to a Norwegian supplementary pension based on the preceding sentence, pension points must have been credited for at least one year on the basis of occupational activity for at least one year.

Article 20C

An old age pension shall be calculated exclusively on the basis of insurance periods completed under the legislation of Norway and only according to the legislation of Norway.

Article 20D

1. If a person is entitled to a survivor's benefit under the Norwegian legislation without proceeding to aggregation, the Insurance Authority shall calculate the benefit directly on the basis of insurance periods completed in Norway and only under the legislation of Norway.

2. If a person is entitled to a survivor's benefit by virtue of the Norwegian legislation, with his right being created solely by taking the aggregation of the insurance periods into account pursuant to Articles 20A and 20B, the following rules apply:

(a) the Insurance Authority of Norway shall calculate the theoretical amount of the benefit due as if all the insurance periods completed under the legislation of Norway and the United Kingdom were completed under the legislation of Norway;

(b) the Insurance Authority shall then calculate the amount due, on the basis of the amount specified under (a), in proportion to the duration of the insurance periods under Norwegian legislation, in relation to the duration of all insurance periods accounted under (a);

(c) if the insurance period in Norway or the aggregation of Norwegian and United Kingdom insurance periods exceed 40 years, the years in excess shall be disregarded for the purposes of this calculation. With regard to calculating supplementary pensions, only pension point years in Norway and insurance periods in the United Kingdom shall be taken into account.

Article 20E

1. When a person, who is receiving a pension payable to a surviving spouse, reaches the age when pension is converted into an old age pension, the conversion shall be done in accordance with the provisions of the legislation of Norway.

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2. To the extent that future insurance periods or future pension point years taken into account for the calculation of a survivors' benefit in accordance with Article 20D coincide with corresponding insurance periods taken into account for the calculation of a benefit under the legislation of the United Kingdom, the latter periods shall not be taken into account for the calculation of an old age pension under the legislation of Norway."

32. At Article 23 for "both Parties" substitute "Norway, the Isle of Man or Island of Jersey".

33. Delete Section 11, Article 28.

#### **Amendments to the Protocol**

1. In Article 1(a)(i) for "the Isle of Man Department of Health and Social Security", substitute "the Isle of Man Department of Health and Social Care".

2. In Article 1(a)(ii) for "the Public Health Committee of the States of Jersey" substitute "the Health and Community Services Department of the States of Jersey".

3. For Article 1(a)(iii) substitute:

"(iii) in relation to Norway, medical treatment fully or partially funded by the public authorities in accordance with the legislation in force in Norway;"

4. In Article 1(c)(i) for "the Department of Health" substitute "the Department of Health and Social Care".

5. In Article 1(c)(ii) for "the Isle of Man Department of Health and Social Security" substitute "the Isle of Man Department of Health and Social Care".

6. In Article 1(c)(iii) for "the Public Health Committee of the States of Jersey" substitute "the Health and Community Services Department of the States of Jersey".

7. For Article 1(c)(iv) substitute:

"(iv) in relation to Norway, the Ministry responsible for matters covered by this Protocol;"

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ROYAL NORWEGIAN  
MINISTRY OF FOREIGN AFFAIRS

Minister of Foreign Affairs

Oslo, 7 December 2020

Your Excellency

I have the honour to acknowledge receipt of your Letter of 7 December 2020 which reads as follows:

*"I have the honour to refer to the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway, signed at Oslo on 19 June 1990, as amended by an exchange of Notes in 1992 (hereinafter referred to as "the Convention") with integrated Protocol Concerning Medical Treatment of 19 June 1990 (hereinafter referred to as "the Protocol") and to recent discussions between Her Majesty's Revenue and Customs, the Department of Work and Pensions and the Department of Health and Social Care for the United Kingdom and the Ministry of Labour and Social Affairs, the Ministry of Health and Care Services and the Ministry of Children and Family affairs for Norway concerning necessary amendments to the Convention and the Protocol.*

*In these discussions, our two Governments have considered that the Convention and the Protocol have been superseded by the laws of the European Union ("EU") on the same subject-matter, as regards persons to whom those laws were at that date or subsequently became applicable, which applied as between the United Kingdom and the Kingdom of Norway by virtue of the Agreement on the European Economic Area done at Porto on 2 May 1992.*

*Our two Governments have further noted that, following the departure of the United Kingdom from the European Union, EU law will cease to apply to the United Kingdom at the end of the transition period on 31 December 2020. The United Kingdom and the Kingdom of Norway, however, wish to maintain and develop their strong relationship in the fields of social security at the end of this period.*

*Consequently, the United Kingdom and the Kingdom of Norway have agreed that the Convention and the Protocol are to apply between them, with particular provision in respect of the Isle of Man and the Island of Jersey, subject to the amendments set out in the Annex to this Letter ("this Agreement"). I therefore have the honour to propose, on behalf of the Government of the United Kingdom, that the provisions of the Convention and the Protocol, as amended in the Annex to this*

HE Mr Richard Wood  
Ambassador of the United Kingdom to Norway  
Oslo

*Letter, shall have legal force and effect as between the United Kingdom and the Kingdom of Norway and shall replace any and all prior versions of the Convention and the Protocol.*

*I have further the honour to propose that this Agreement shall enter into force on 1 January 2021.*

*If the foregoing proposals are acceptable to the Government of the Kingdom of Norway, I have the honour to propose that this Letter together with your Excellency's reply shall constitute an agreement between our Governments which shall enter into force in accordance with the provisions set out above.*

*I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration."*

I have the honour to inform you that the foregoing is acceptable to the Government of the Kingdom of Norway who therefore agree that your Letter and this reply shall constitute an Agreement between our two Governments in this matter, which shall enter into force on 1 January 2021.

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

  
Ine Eriksen Søreide

Page 2

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision for the modification of specified social security legislation, so as to give effect in Great Britain to the amendments agreed on 7th December 2020 (“the Agreement”) to the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway, and the Protocol concerning Medical Treatment, done at Oslo at 19 June 1990 (“the Convention”).

The Agreement provides for the changes to the Convention to take effect from 1st January 2021.

This Order revokes the Social Security (Norway) Order 1992.

The Order does not impose any costs on business, charities or the voluntary sector. A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy.

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