STATUTORY INSTRUMENTS

# 2021 No. 1088

# SOCIAL SECURITY

The Social Security (Switzerland) Order 2021

Made---29th September 2021Coming 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 9th 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.

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:

 <sup>1992</sup> 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) and by paragraph 1 of Part 1 of Schedule 1 to S.I. 2020/1508.

<sup>(2) 2021</sup> CP 530.

## Citation and commencement **E+W+S**

1. This Order may be cited as the Social Security (Switzerland) 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 this Order(3); or
- (b) where the Convention has not been applied provisionally as provided for in Article 73, 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 this Order(4).

### **Commencement Information**

**I**1

Art. 1 coming into force in accordance with art. 1

## Modification of legislation E+W+S

**2.**—(1) The legislation to which this paragraph applies is modified to the extent required to give effect to the provisions contained in the Convention set out in the Schedule to this Order.

- (2) Subject to paragraph (3), paragraph (1) applies to—
  - (a) the Social Security Administration Act 1992(5);
  - (b) the Social Security Contributions and Benefits Act 1992(6);
  - (c) the Jobseekers Act 1995(7);
  - (d) Chapter 2 of Part 1 of the Social Security Act 1998(8);
  - (e) Part 2 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999(9);
  - (f) the State Pension Credit Act 2002(10);
  - (g) Part 1 of the Welfare Reform Act 2007(11);
  - (h) Parts 1 and 4 of the Welfare Reform Act 2012(12);
  - (i) Parts 1 and 5 of the Pensions Act 2014(13);
  - (j) the following as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018(14)—

<sup>(3)</sup> 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/

<sup>(4)</sup> 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

<sup>(5)</sup> 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 section 179(4)(b)(i)-(v) of the Social Security Administration Act 1992 excludes these benefits from the scope of the power to modify.

<sup>(6) 1992</sup> c. 4.

<sup>(7) 1995</sup> c. 18.

<sup>(8) 1998</sup> c. 14.
(9) 1999 c. 2.

<sup>(</sup>**10**) 2002 c. 16.

<sup>(</sup>**11**) 2007 c. 5.

<sup>(12) 2012</sup> c. 5.

<sup>(13) 2014</sup> c. 19.

<sup>(14) 2018</sup> c. 16. Section 3 was amended by section 25(2) of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Regulations (EC) No 883/2004 and 987/2009 as they form part of domestic law under section 3 of the European Union (Withdrawal) Act 2018 were revoked (with savings) by S.I. 2020/1508.

- (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; and
- (k) regulations within the scope of section 179(5) of the Social Security Administration Act 1992(15),

so far as such provisions relate to England, Wales and Scotland.

(3) Paragraph (1) does not modify any legislation so far as it would be within the legislative competence of the Scottish Parliament to make such modification<sup>F1</sup>....

(4) Paragraph (1) also applies to  $[^{F2}Part 3]$  of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(16) so far as such provision relates to Northern Ireland.

### **Textual Amendments**

- F1 Words in art. 2(3) omitted (12.10.2023) by virtue of The Social Security (Iceland) (Liechtenstein) (Norway) Order 2023 (S.I. 2023/1060), arts. 1(2), 4(2)(a)
- F2 Words in art. 2(4) substituted (12.10.2023) by The Social Security (Iceland) (Liechtenstein) (Norway) Order 2023 (S.I. 2023/1060), arts. 1(2), 4(2)(b)

### **Modifications etc. (not altering text)**

C1 Art. 2(1)(2) applied (coming into force in accordance with art. 1 of the amending S.S.I.) by The Social Security (Switzerland) (Further provision in respect of Scotland) Order 2021 (S.S.I. 2021/345), art. 2

### **Commencement Information**

I2 Art. 2 coming into force in accordance with art. 1

## Variation of Order E+W+S

**3.** The Family Allowances, National Insurance and Industrial Injuries (Switzerland) Order 1969(17) is varied in accordance with Article 77 (Relationship with the 1968 Convention) of the Convention set out in the Schedule to this Order.

## **Modifications etc. (not altering text)**

C2 Art. 3 applied (coming into force in accordance with art. 1 of the amending S.S.I.) by The Social Security (Switzerland) (Further provision in respect of Scotland) Order 2021 (S.S.I. 2021/345), art. 3

## **Commencement Information**

I3 Art. 3 coming into force in accordance with art. 1

<sup>(15)</sup> 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); 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; 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.

<sup>(16)</sup> S.I. 1999/671.

 <sup>(17)</sup> S.I. 1969/384. Relevant amending instruments are S.I. 1976/225, 1976/963, 1979/290, 1988/591, 1995/767, 2001/407, 2005/2765 and 2016/158.

*Ceri King* Deputy Clerk of the Privy Council

# SCHEDULE E+W+S

Articles 1, 2 and 3

## Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation

Commencement II4Sch. coming	into force in accordance with art. 1
TH The Uni The Sw	VENTION ON SOCIAL SECURITY COORDINATION BETWEEN E UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS CONFEDERATION ted Kingdom of Great Britain and Northern Ireland ("United Kingdom") and iss Confederation ("Switzerland") (together "the States" and individually
January	G that the United Kingdom withdrew from the European Union on 31 2020 and ceased applying the Free Movement of Persons Agreement with om 1 January 2021,
by perso	NISING the importance of the coordination of social security rights enjoyed ons moving between both States to work, to stay or to reside, as well as the joyed by their family members and survivors,
Have ag	reed as follows:
	TITLE I
	GENERAL PROVISIONS
	Article 1
	Definitions
	purposes of this Convention, the following definitions apply:
(a)	<ul> <li>"activity as an employed person" means any activity or equivalent situation treated as such for the purposes of the social security legislation of the State in which such activity or equivalent situation exists;</li> </ul>
(b)	<ul> <li>"activity as a self-employed person" means any activity or equivalent situation treated as such for the purposes of the social security legislation of the State in which such activity or equivalent situation exists;</li> </ul>
(c)	<ul> <li>"assisted reproduction services" means any medical, surgical or obstetric services provided for the purpose of assisting a person to carry a child;</li> </ul>
(d	) "benefits in kind" means:
	<ul> <li>(i) for the purposes of Chapter 1 of Title III, benefits in kind provided for under the legislation of a State which are intended to supply, make available, pay directly or reimburse the cost of medical care and products and services ancillary to that care;</li> </ul>

<ul> <li>(ii) for the purposes of Chapter 2 of Title III, all benefits in kind relating to accidents at work and occupational diseases subset and occupational diseases schemes;</li> <li>(c) "civil servant" means a person considered to be such or treated as such by the State to which the administration employing them is subject;</li> <li>(f) "competent authority" means, in respect of each State, the Minister, Ministers or other equivalent authority responsible for social security schemes throughout or in any part of the State in question;</li> <li>(g) "competent institution" means:</li> <li>(i) the institution with which the person concerned is insured at the time of the application for benefit; or</li> <li>(ii) the institution from which the person concerned is or would be entitled to benefits if that person or a member or members of their family resided in the State in which the institution is situated; or</li> <li>(iii) the institution designated by the competent authority of the State concerned; or</li> <li>(iii) in the case of a scheme relating to an employer's obligations in respect of the matters to which this Convention applies under Article 6, either the employer or the insurer involved or, in default thereof, the body or authority designated by the competent authority of the State concerned;</li> <li>(b) "competent State" means the State in which the competent institution is situated;</li> <li>(i) "detth grant" means any one-off payment in the event of death, excluding the lump-sum benefits referred to in paragraph (y);</li> <li>(i) "dettoric exchange" means a system for the exchange of social security information using transmission by electronic means;</li> <li>(k) "family benefit" means all benefits in kind or in cash intended to meet family expenses;</li> </ul>		
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	(1)	

	benefits under the legislation of the State or States concerned or under the provisions of this Convention are not met; or
	<ul> <li>avoid paying social security contributions, or enable another person to avoid paying social security contributions, when such contributions are required under the legislation of the State or States concerned or under the provisions of this Convention;</li> </ul>
(m)	"frontier worker" means any person pursuing an activity as an employed or self-employed person in a State and who resides in the other State to which that person returns as a rule daily or at least once a week;
(n)	"home base" means the place from where the crew member normally starts and ends a duty period or a series of duty periods, and where, under normal conditions, the operator/airline is not responsible for the accommodation of the crew member concerned;
(0)	"institution" means, in respect of each State, the body or authority responsible for applying all or part of the legislation;
(p)	"institution of the place of residence" and "institution of the place of stay" mean, respectively, the institution which is competent to provide benefits in the place where the person concerned resides and the institution which is competent to provide benefits in the place where the person concerned is staying, in accordance with the legislation administered by that institution or, where no such institution exists, the institution designated by the competent authority of the State concerned;
(q)	"insured person" means, in relation to the matters to which Chapters I and 3 of Title III apply, any person satisfying the conditions required under the legislation of the State competent under Title II to have the right to benefits, taking into account the provisions of this Convention;
(r)	"legal residence" means residence or stay in accordance with the relevant State's immigration laws;
(s)	"legislation" means, in respect of each State, laws, regulations and other statutory provisions and all other implementing measures relating to the matters to which this Convention applies under Article 6, but excludes contractual provisions other than those which serve to implement an insurance obligation arising from the laws and regulations referred to in this paragraph or which have been the subject of a decision by the public authorities which makes them obligatory or extends their scope, provided that the State concerned makes a declaration to that effect, notified to the Joint Administrative Committee;
(1)	"liaison body" means any body designated by a competent authority for one or more of the branches of social security referred to in Article 6 of

	this Convention to respond to requests for information and assistance for the purposes of the application of this Convention and which has to fulfil the tasks assigned to it under Title IV of Annex 1;
(u)	
(v)	"member of the family" means:
	<ul> <li>(i) (A) any person defined or recognised as a member of the family or designated as a member of the household by the legislation under which benefits are provided;</li> </ul>
	(B) with regard to benefits in kind pursuant to Chapter 1of Title III, any person defined or recognised as a member of the family or designated as a member of the household by the legislation of the State in which that person resides;
	(ii) if the legislation of a State which is applicable under point (i) does not make a distinction between the members of the family and other persons to whom it is applicable, the spouse, minor children and dependent children who have reached the age of majority shall be considered members of the family;
	(iii) if, under the legislation which is applicable under points (i) and (ii), a person is considered a member of the family or member of the household only if that person lives in the same household as the insured person or pensioner, this condition shall be considered satisfied if the person in question is mainly dependent on the insured person or pensioner;
(w)	"national of a European Union Member State" means a national of a Member State of the European Union according to the laws of the relevant Member State;
(x)	"obligation of professional secrecy" means an obligation to protect such information effectively through appropriate security, technical and organisational measures and prevent unauthorised access, unauthorised modification and unauthorised disclosure of such information;
(y)	"pension" covers not only pensions but also lump-sum benefits which can be substituted for them and payments in the form of reimbursement

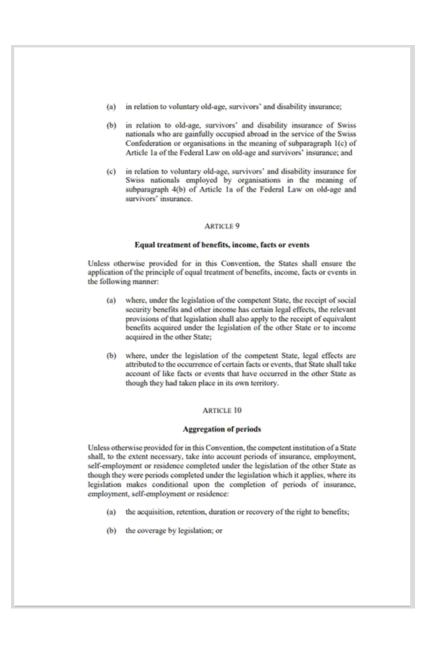
	of contributions and, subject to the provisions of Title III, revaluation increases or supplementary allowances;
(z)	"period of employment" or "period of self-employment" mean periods so defined or recognised by the legislation under which they were completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of employment or to periods of self-employment;
(aa)	"period of insurance" means periods of contribution, employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of insurance;
(bb)	"period of residence" means periods so defined or recognised by the legislation under which they were completed or considered as completed;
(cc)	"personal data" means any data concerning or relating to an identified or identifiable natural person;
(dd)	"refugee" has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951;
(ce)	"registered office or place of business" means the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out;
(ff)	"residence" (except in Article 3) means the place where a person habitually resides;
(gg)	"special non-contributory cash benefits" means those non-contributory cash benefits which:
	(i) are intended to provide either:
	(A) supplementary, substitute or ancillary cover against the risks covered by the branches of social security referred to in Article 6(1), and which guarantee the persons concerned a minimum subsistence income having regard to the economic and social situation in the State concerned; or
	(B) solely specific protection for the disabled, closely linked to the said person's social environment in the State concerned, and

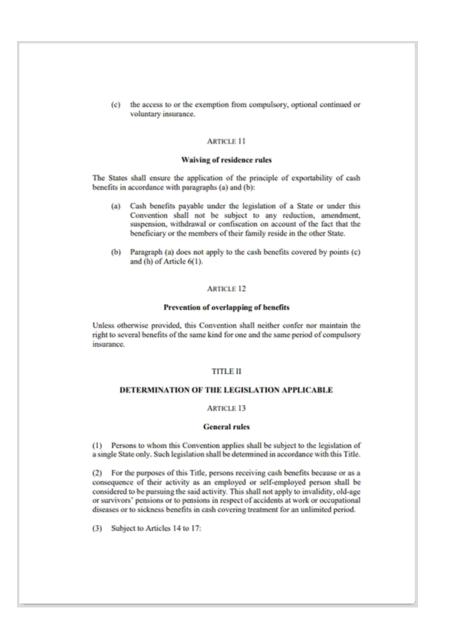
		(ii)	where the financing exclusively derives from compulsory taxation intended to cover general public expenditure and the conditions for providing and for calculating the benefits are not dependent on any contribution in respect of the beneficiary. However, benefits provided to supplement a contributory benefit shall not be considered to be contributory benefits for this reason alone;
	(hh)	whice cmp	cial scheme for civil servants" means any social security scheme ch is different from the general social security scheme applicable to loyed persons in the State concerned and to which all, or certain gories of, civil servants are directly subject;
	(ii)	Con	teless person" has the meaning assigned to it in Article 1 of the vention relating to the Status of Stateless Persons, signed in New k on 28 September 1954;
	(jj)	"stay	y" means temporary residence;
	(kk)		iss national" means a Swiss citizen according to the Federal stitution of the Swiss Confederation;
	(11)	"Un	ited Kingdom national" means:
		(i)	a British citizen;
		(ii)	a person who is a British subject by virtue of Part IV of the British Nationality Act 1981 and who has the right of abode in the United Kingdom and is therefore exempt from United Kingdom immigration control;
		(iii)	a British overseas territories citizen who acquires their citizenship from a connection with Gibraltar.
			ARTICLE 2
			Persons covered
(1)	As a	pplied	I by Switzerland, this Convention shall apply to:
	(a)	Unic	ted Kingdom nationals, Swiss nationals, nationals of a European on Member State, stateless persons and refugees, in each case who or have been subject to the legislation of either or both of the States;
	(b)	the r (a).	nembers of the family and survivors of the persons described in point

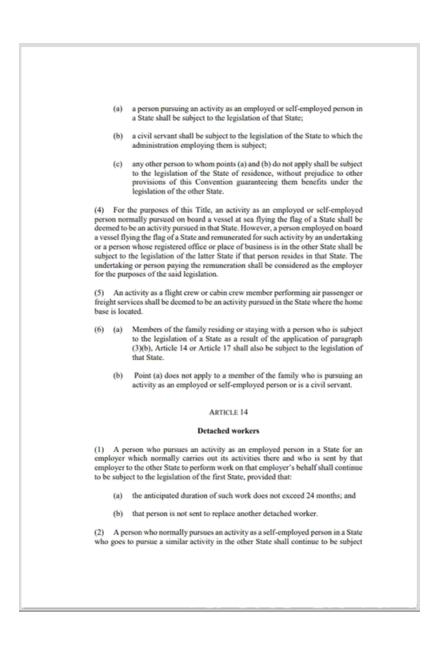
Convent	totwithstanding paragraph I, Switzerland shall apply the provisions of thi tion, insofar as they relate to a determination of the applicable legislation fo poses of Title II, to:
(a	<ul> <li>persons who are or have been subject to the legislation of either or both of the States; and</li> </ul>
(b	<ul> <li>the members of the family and survivors of the persons described in poin (a).</li> </ul>
(3) A:	s applied by the United Kingdom, this Convention shall apply to:
(a)	<ul> <li>persons who are or have been subject to the legislation of either or both the States; and</li> </ul>
(b	<ul> <li>the members of the family and survivors of the persons described in poin (a).</li> </ul>
	otwithstanding paragraph 3, the United Kingdom shall apply the provision Convention (except Article 19), insofar as they relate to benefits in kind, only
(a	<ul> <li>United Kingdom nationals, Swiss nationals, nationals of a European Union Member State, stateless persons and refugees, in each case whe are or have been subject to the legislation of either or both of the States and</li> </ul>
(b	<ul> <li>the members of the family and survivors of the persons described in poin (a).</li> </ul>
	ARTICLE 3
	Legally residing
	his Convention shall apply to persons legally residing in Switzerland or the Kingdom.
	aragraph 1 of this Article shall not affect entitlements to cash benefits which o previous periods of legal residence of persons covered by Article 2.
	ARTICLE 4
	Cross border situations
	onvention shall not apply to a person whose situation is confined in all respects vithin Switzerland, or within the United Kingdom.

	ARTICLE 5
	Territorial scope
Kingdon	visions of this Convention shall apply, on the one hand, to the United and Gibraltar and, on the other hand, to Switzerland. Accordingly, is in this Convention to the "United Kingdom" shall include Gibraltar.
	ARTICLE 6
	Matters covered
(1) Th	is Convention shall apply to the following branches of social security:
(a)	sickness benefits;
(b)	maternity and equivalent paternity benefits;
(c)	invalidity benefits;
(d)	old-age benefits;
(c)	survivors' benefits;
(f)	benefits in respect of accidents at work and occupational diseases;
(g)	death grants;
(h)	unemployment benefits.
general	less otherwise provided for in Annex 4, this Convention shall apply to and special social security schemes, whether contributory or non- ory, and to schemes relating to the obligations of an employer or ship-
	e provisions of Title III shall not, however, affect the legislative provisions State concerning a ship-owner's obligations.
(4) Th	is Convention shall not apply to:
(a)	special non-contributory cash benefits which are listed in Part 1 of Annex
	2; social and medical assistance;
(b)	

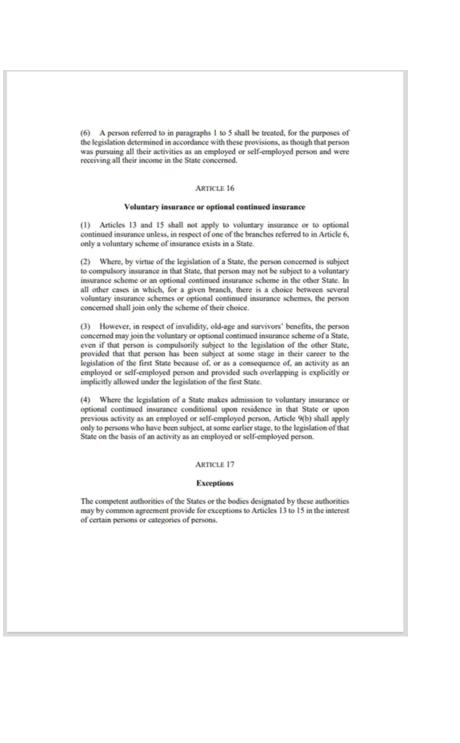
	or terrorist acts; victims of damage occasioned by agents of the State in the course of their duties; or victims who have suffered a disadvantage for political or religious reasons or for reasons of descent;
(d)	long-term care benefits which are listed in Part 2 of Annex 2;
(c)	assisted reproduction services;
(f)	payments which are connected to a branch of social security listed in paragraph I and which are:
	(i) paid to meet expenses for heating in cold weather; and
	(ii) listed in Part 3 of Annex 2;
(g)	family benefits;
(h)	Swiss old-age, survivors' and invalidity benefits under the statutory occupational benefit plans.
	ARTICLE 7
	Relationship with other agreements
Swiss Cor on citizer	s Convention shall apply without prejudice to the Agreement between the nfederation and the United Kingdom of Great Britain and Northern Ireland as' rights following the withdrawal of the United Kingdom from the Union and the free movement of persons Agreement, signed in Berne on ry 2019.
	hing in this Convention shall be construed as requiring either State to act er inconsistent with its obligations under agreements with third countries.
	ARTICLE 8
	Equality of treatment
which thi applies sh	ess otherwise provided for in this Convention, as regards the matters to s Convention applies under Article 6, persons to whom this Convention all enjoy the same benefits and be subject to the same obligations under tion of a State as the nationals thereof.
	s provision does not apply to the exportability of cash benefits covered by of Article $6(1)$ .
(3) This	s provision does not apply to the Swiss legislation:

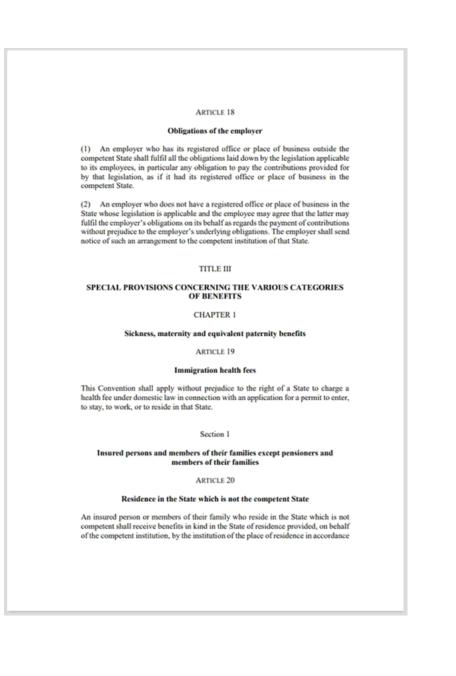


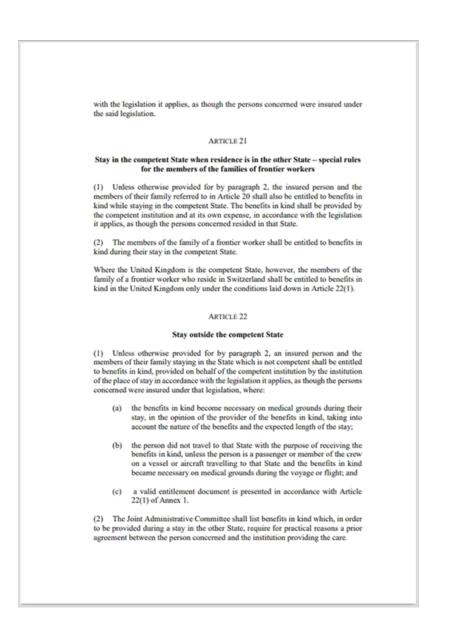




<ul> <li>to the legislation of the first State, provided that the anticipated duration of such activity does not exceed 24 months.</li> <li>ARTICLE 15</li> <li>Pursuit of activities in both States</li> <li>(1) A person who normally pursues an activity as an employed person in both States shall be subject to the legislation of the State of residence, provided they pursue a substantial part of their activity there.</li> <li>(2) Where a person does not pursue a substantial part of the activity described in paragraph 1 in the State of residence, the legislation applicable to that person shall be determined as follows:</li> <li>(a) if the person is employed by one or more employers, all of which have their registered office or place of business in one State, they shall be subject to the legislation of that State;</li> <li>(b) if the person is employed by one or more employers, none of which have their registered office or place of business in both States, they shall be subject to the legislation of the State of residence;</li> <li>(c) if the person is employed by one or more employers, none of which have a registered office or place of business in either State, they shall be subject to the legislation of their State of residence;</li> <li>(d) A person who normally pursues an activity as a self-employed person in both States shall be subject to:</li> <li>(e) the legislation of their State of residence, provided they pursue a substantial part of their activity there; or</li> <li>(f) the legislation of the State in which the centre of interest of their activities is situated, provided they do not reside in the State in which they pursue a substantial part of their activity as an employed person and an other state in which they carry out their activity as an employed person, or, if that person is employeed person is hob States, shall be subject to the legislation of the states shall be subject to the legislation of the states shall be subject to the legislation of the states shall be subject to the legislation of the st</li></ul>		
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<ul> <li>is situated, provided they do not reside in the State in which they pursue a substantial part of their activity.</li> <li>(4) A person who normally pursues an activity as an employed person and an activity as a self-employed person in both States shall be subject to the legislation of the State in which they carry out their activity as an employed person; or, if that person is employed in both States, that person shall be subject to the legislation determined in accordance with paragraph 1.</li> <li>(5) A person who is employed as a civil servant by a State and who pursues an activity as an employed and/or self-employed person in the other State shall be</li> </ul>	(a)	
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activity as an employed and/or self-employed person in the other State shall be	activity as the State person is	a self-employed person in both States shall be subject to the legislation of in which they carry out their activity as an employed person; or, if that employed in both States, that person shall be subject to the legislation
	activity as	an employed and/or self-employed person in the other State shall be







#### ARTICLE 23

### Travel with the purpose of receiving benefits in kind – authorisation to receive appropriate treatment outside the State of residence

(1) Unless otherwise provided for in this Convention, an insured person travelling to the other State with the purpose of receiving benefits in kind during the stay shall seek authorisation from the competent institution.

(2) An insured person who is authorised by the competent institution to go to the other State with the purpose of receiving the treatment appropriate to their condition shall receive the benefits in kind provided, on behalf of the competent institution, by the institution of the place of stay, in accordance with the legislation it applies, as though that person were insured under the said legislation. The authorisation shall be accorded where the treatment in question is among the benefits provided for by the legislation in the State where the person concerned resides and where that person cannot be given such treatment within a time limit which is medically justifiable, taking into account their current state of health and the probable course of their illness.

(3) Paragraphs 1 and 2 apply *mutatis mutandis* to the members of the family of an insured person.

### ARTICLE 24

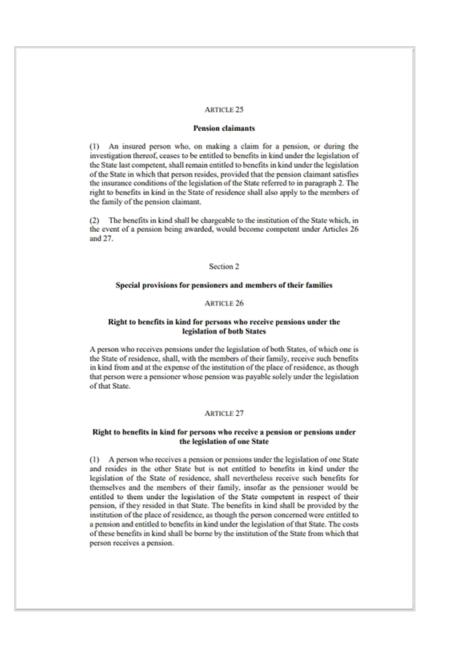
### Cash benefits

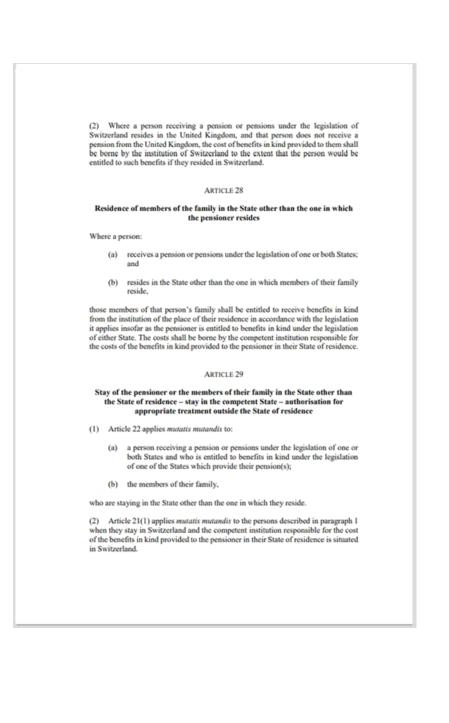
 An insured person and members of their family residing or staying in the State which is not competent shall be entitled to cash benefits provided by the competent institution in accordance with the legislation it applies.

(2) The competent institution of a State whose legislation stipulates that the calculation of cash benefits shall be based on average income or on an average contribution basis shall determine such average income or average contribution basis exclusively by reference to the incomes confirmed as having been paid, or contribution bases applied, during the periods completed under the said legislation.

(3) The competent institution of a State whose legislation provides that the calculation of cash benefits shall be based on standard income shall take into account exclusively the standard income or, where appropriate, the average of standard incomes for the periods completed under the said legislation.

(4) Paragraphs 2 and 3 apply *mutatis mutandis* to cases where the legislation applied by the competent institution lays down a specific reference period which corresponds in the case in question either wholly or partly to the periods which the person concerned has completed under the legislation of the other State.





(3) Article 23 applies *mutatis mutandis* to a pensioner or members of their family who are staying in the State other than the one in which they reside with the purpose of receiving in that State the treatment appropriate to their condition.

(4) Unless otherwise provided for by paragraph 5, the cost of the benefits in kind referred to in paragraphs 1 to 3 shall be borne by the competent institution responsible for the cost of benefits in kind provided to the pensioner in their State of residence.

(5) The cost of the benefits in kind referred to in paragraph 3 shall be borne by the institution of the place of residence of the pensioner or of the members of their family, if these persons reside in a State which has opted for reimbursement on the basis of fixed amounts. In these cases, for the purposes of paragraph 3, the institution of the place of residence of the pensioner or of the members of their family shall be considered to be the competent institution.

#### ARTICLE 30

### Cash benefits for pensioners

(1) Cash benefits shall be paid to a person receiving a pension or pensions under the legislation of one or both States by the competent institution of the State in which is situated the competent institution responsible for the cost of benefits in kind provided to the pensioner in their State of residence. Article 24 applies *mutantis mutantis*.

(2) Paragraph I shall also apply to the members of a pensioner's family.

#### ARTICLE 31

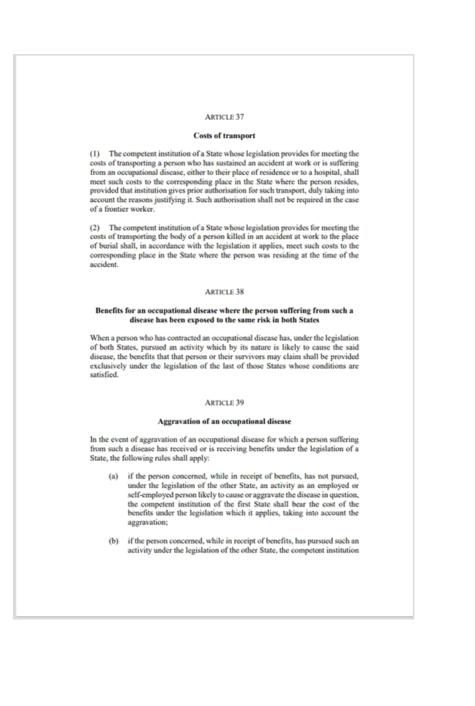
### **Contributions by pensioners**

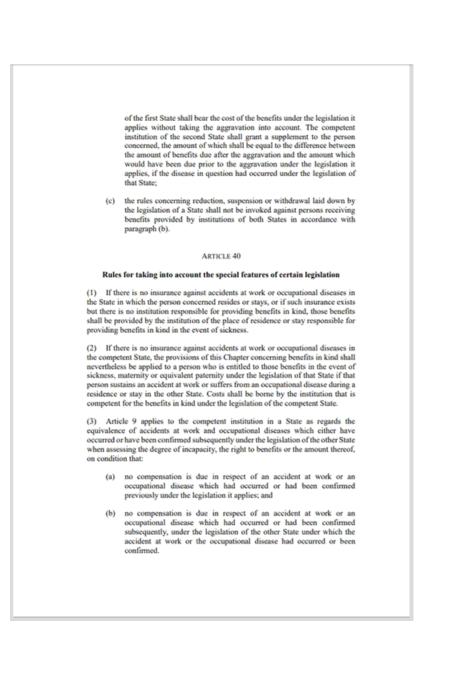
(1) The institution of a State which is responsible under the legislation it applies for making deductions in respect of contributions for sickness, maternity and equivalent paternity benefits, may request and recover such deductions, calculated in accordance with the legislation it applies, only to the extent that the cost of the benefits pursuant to Articles 26 to 28 is to be borne by an institution of that State.

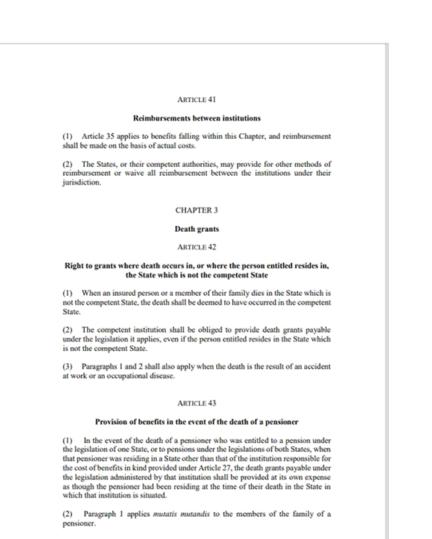
(2) Where, in the cases referred to in Article 27(2), the acquisition of sickness, maternity and equivalent paternity benefits is subject to the payment of contributions or similar payments under the legislation of a State in which the pensioner concerned resides, these contributions shall not be payable by virtue of such residence.

Section 3
Common provisions
ARTICLE 32
General provisions
Articles 26 to 31 shall not apply to a pensioner or the members of their family who are entitled to benefits under the legislation of a State on the basis of an activity as
an employed or self-employed person. In such a case, the person concerned shall be subject, for the purposes of this Chapter, to Articles 20 to 24.
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ARTICLE 33
Prioritising of the right to benefits in kind - special rule for the right of
members of the family to benefits in the State of residence
(1) Unless otherwise provided for by paragraph 2, where a member of the family has an independent right to benefits in kind based on the legislation of either State or
under this Chapter such right shall take priority over a derivative right to benefits in
kind for members of the family.
(2) Where the independent right in the State of residence exists directly and solely on the basis of the residence of the person concerned in that State, a derivative right
to benefits in kind shall take priority over the independent right.
ARTICLE 34
Family members residing in the United Kingdom
Notwithstanding Article 20, Articles 26 to 28 and Article 33, the members of the family residing in the United Kingdom of a person for whom Switzerland is the
competent State under the terms of Title II of this Convention, or of an employed or self-employed person, a civil servant or a pensioner who resides in Switzerland and
is insured under the Swiss sickness insurance scheme, or of a person for whom
Switzerland is the competent State under Articles 27 to 28, are entitled to benefits in kind as though they were insured solely under the legislation of the United Kingdom
and have no derivative right to benefits in kind in Switzerland.

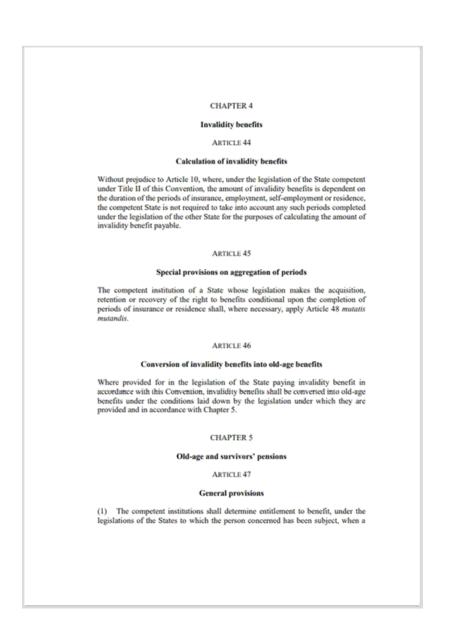
ARTICLE 35
Reimbursements between institutions
(1) The benefits in kind provided by the institution of a State on behalf of the institution of the other State under this Chapter shall give rise to full reimbursement.
(2) The reimbursements referred to in paragraph 1 shall be determined and effected in accordance with Annex 1, either on production of proof of actual expenditure, or on the basis of fixed amounts, as appropriate.
(3) The States, and their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between the institutions coming under their jurisdiction.
CHAPTER 2
Benefits in respect of accidents at work and occupational diseases
ARTICLE 36
Right to benefits in kind and in cash
(1) Without prejudice to any more favourable provisions in paragraphs 2 and 3 of this Article, Articles 20, 21(1), 22(1) and 23(1) shall also apply to benefits relating to accidents at work or occupational diseases.
(2) A person who has sustained an accident at work or has contracted an occupational disease and who resides or stays in a State other than the competent State shall be entitled to the special benefits in kind of the scheme covering accidents at work and occupational diseases provided, on behalf of the competent institution, by the institution of the place of residence or stay in accordance with the legislation which it applies, as though that person were insured under that legislation.
(3) The competent institution may not refuse to grant the authorisation provided for in Article 23(1) to a person who has sustained an accident at work or who has contracted an occupational disease and is entitled to benefits chargeable to that institution, where the treatment appropriate to their condition cannot be given in the State in which that person resides within a time limit which is medically justifiable, taking into account that person's current state of health and the probable course of the illness.
(4) Article 24 also applies to benefits falling within this Chapter.







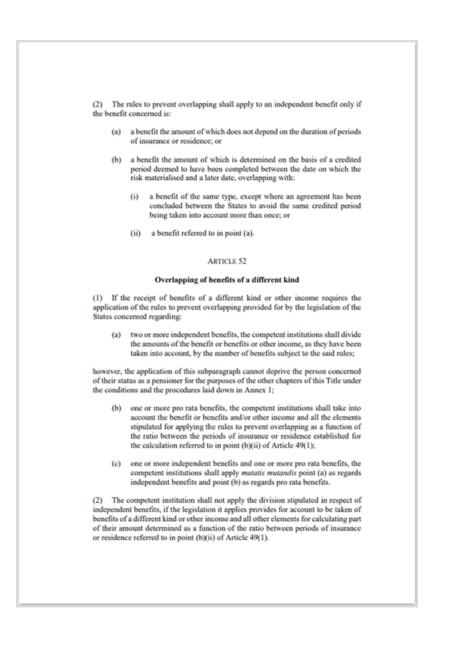
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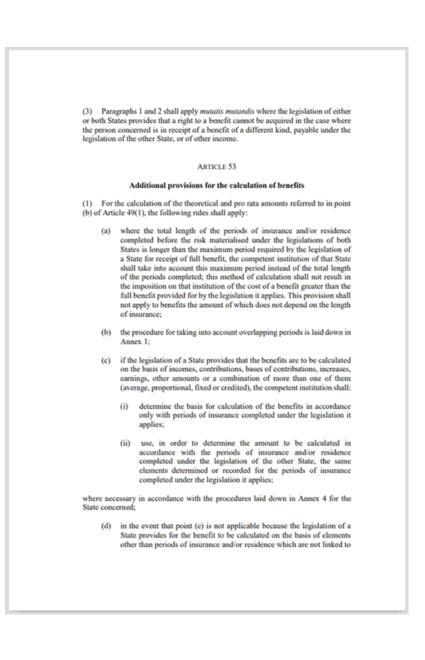


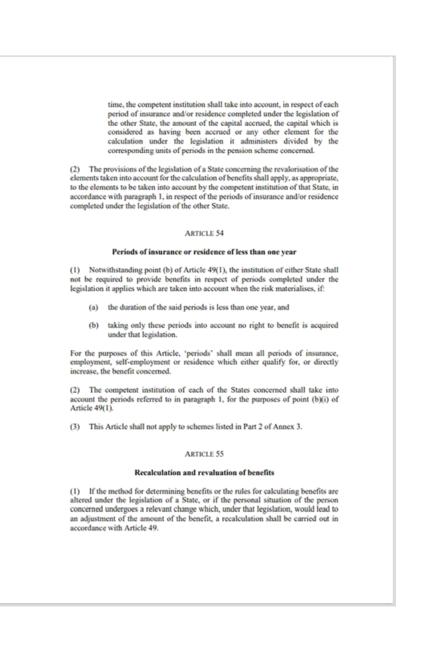
request for award has been submitted, unless the person concerned expressly requests deferment of the award of old-age benefits under the legislation of one or both States. (2) If at a given moment the person concerned does not satisfy, or no longer satisfies, the conditions laid down by the legislations of the States to which that person has been subject, the institutions applying legislation the conditions of which have been satisfied shall not take into account, when performing the calculation in accordance with points (a) or (b) of Article 49(1), the periods completed under the legislations the conditions of which have not been satisfied, or are no longer satisfied, where this gives rise to a lower amount of benefit. (3) Paragraph 2 applies mutatis mutandis when the person concerned has expressly requested deferment of the award of old-age benefits. A new calculation shall be performed automatically as and when the conditions (4) (4) A new calculation shart be performed automatically as and when the containous to be fulfilled under the other legislations are satisfied or when a person requests the award of an old-age benefit deferred in accordance with paragraph 1, unless the periods completed under the other legislations have already been taken into account by virtue of paragraphs 2 or 3. ARTICLE 48 Insurance when the risk materialises Where the legislation or specific scheme of a State makes the acquisition, retention or recovery of the right to benefits conditional upon the person concerned being insured at the time of the materialisation of the risk, this condition shall be regarded as having been satisfied if that person has been previously insured under the legislation or specific scheme of that State and is, at the time of the materialisation of the risk, insured under the legislation of the other State for the same risk or, failing that, if a benefit is due under the legislation of the other State for the same risk. The latter condition shall, however, be deemed to be fulfilled in the cases referred to in Article 54. ARTICLE 49 Award of benefits (1) The competent institution shall calculate the amount of the benefit that would be due: under the legislation it applies, only where the conditions for entitlement to benefits have been satisfied exclusively under national law (independent benefit);

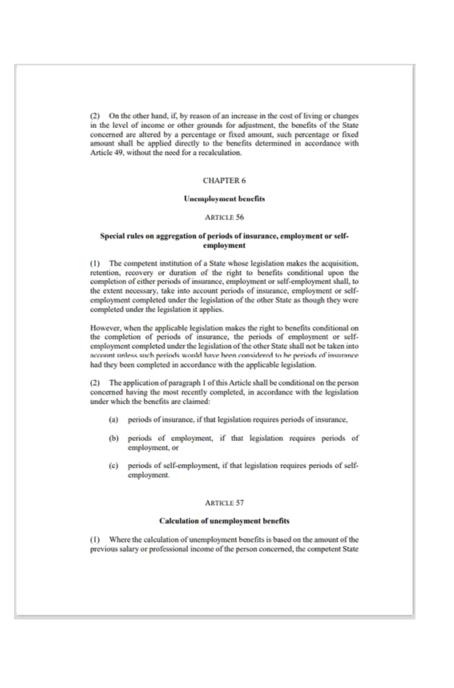
		y calculating a theoretical amount and subsequently an actual amount pro rata benefit), as follows:
	0	i) the theoretical amount of the benefit is equal to the benefit which the person concerned could claim if all the periods of insurance and/or of residence which have been completed under the legislation of the other State had been completed under the legislation it applies on the date of the award of the benefit. If, under this legislation, the amount does not depend on the duration of the periods completed, that amount shall be regarded as being the theoretical amount;
	(	ii) the competent institution shall then establish the actual amount of the pro rata benefit by applying to the theoretical amount the ratio between the duration of the periods completed before materialisation of the risk under the legislation it applies and the total duration of the periods completed before materialisation of the risk under the legislations of both States concerned.
cale to re	ulated in eduction,	appropriate, the competent institution shall apply, to the amount accordance with points (a) and (b) of paragraph 1, all the rules relating suspension or withdrawal, under the legislation it applies, within the ed for by Articles 50 to 52.
	tution of	erson concerned shall be entitled to receive from the competent f each State the higher of the amounts calculated in accordance with d (b) of paragraph 1.
inva bene	riably re-	the calculation pursuant to point (a) of paragraph 1 in one State sults in the independent benefit being equal to or higher than the pro rata ulated in accordance with point (b) of paragraph 1, the competent all waive the pro rata calculation, provided that:
	(a) s	uch a situation is set out in Part 1 of Annex 3;
	1	o legislation containing rules against overlapping, as referred to in varieles 50 and 52, is applicable unless the conditions laid down in variele 52(2) are fulfilled; and
		article 54 is not applicable in relation to periods completed under the egislation of the other State in the specific circumstances of the case.
to so to th case	hemes p e calcula s, the per	hstanding paragraphs 1, 2 and 3, the pro rata calculation shall not apply roviding benefits in respect of which periods of time are of no relevance tion, subject to such schemes being listed in Part 2 of Annex 3. In such rson concerned shall be entitled to the benefit calculated in accordance slation of the State concerned.

	ARTICLE 50		
	Rules to prevent overlapping		
the basis of	<ol> <li>Any overlapping of old-age and survivors' benefits calculated or provided on the basis of periods of insurance or residence completed by the same person shall be considered to be overlapping of benefits of the same kind.</li> </ol>		
within the	(2) Overlapping of benefits which cannot be considered to be of the same kind within the meaning of paragraph 1 shall be considered to be overlapping of benefits of a different kind.		
prevent ov of a benef	following provisions shall be applicable for the purposes of rules to ertapping laid down by the legislation of a State in the case of overlapping it in respect of old-age or survivors with a benefit of the same kind or a a different kind or with other income:		
(a)	the competent institution shall take into account the benefits or incomes acquired in the other State only where the legislation it applies provides for benefits or income acquired abroad to be taken into account;		
(b)	the competent institution shall take into account the amount of benefits to be paid by the other State before deduction of tax, social security contributions and other individual levies or deductions, unless the legislation it applies provides for the application of rules to prevent overlapping after such deductions, under the conditions and the procedures laid down in Annex 1;		
(c)	the competent institution shall not take into account the amount of benefits acquired under the legislation of the other State on the basis of voluntary insurance or continued optional insurance;		
(d)	if a State applies rules to prevent overlapping because the person concerned receives benefits of the same or of a different kind under the legislation of the other State or income acquired in the other State, the benefit due may be reduced solely by the amount of such benefits or such income.		
	ARTICLE 51		
	Overlapping of benefits of the same kind		
overlap, th	re benefits of the same kind due under the legislation of both States the rules to prevent overlapping laid down by the legislation of either State e applicable to a pro rata benefit.		









shall take into account the salary or professional income received by the person concerned based exclusively on their last activity as an employed or self-employed person under the legislation of the competent State.

(2) Where the legislation applied by the competent State provides for a specific reference period for the determination of the salary or professional income used to calculate the amount of benefit, and the person concerned was subject to the legislation of the other State for all or part of that reference period, the competent State shall only take into account the salary or professional income received during their last activity as an employed or self-employed person under that legislation.

#### TITLE IV

#### MISCELLANEOUS PROVISIONS

## ARTICLE 58

#### Cooperation

(1) The competent authorities of the States shall notify the Joint Administrative Committee of any changes to their legislation concerning the branches of social security covered by Article 6(1) which are relevant to or may affect the implementation of this Convention.

(2) The competent authorities of the States shall communicate to each other measures taken to implement this Convention that are not notified under paragraph 1.

(3) For the purposes of this Convention, the authorities and institutions of the States shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by those authorities and institutions shall, as a rule, be free of charge. However, the Joint Administrative Committee shall establish the nature of reimbursable expenses and the limits above which their reimbursement is due.

(4) The authorities and institutions of the States may, for the purposes of this Convention, communicate directly with one another and with the persons involved or their representatives.

(5) The institutions and persons covered by this Convention shall have a duty of mutual information and cooperation to ensure the correct implementation of this Convention.

The institutions, in accordance with the principle of good administration, shall respond to all queries within a reasonable period of time and shall in this connection provide the persons concerned with any information required for exercising the rights conferred on them by this Convention. The persons concerned must inform the institutions of the competent State and of the State of residence as soon as possible of any change in their personal or family situation which affects their right to benefits under this Convention.

(6) Failure to respect the obligation of information referred to in the third subparagraph of paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Convention.

(7) The authorities, institutions and tribunals of one State may not reject applications or other documents submitted to them on the grounds that they are written in an official language of the States.

## ARTICLE 59

## Preventing and combatting fraud and error

(1) The States, through their competent authorities, undertake to prevent and combat fraud and error in respect of contributions or benefits due under this Convention.

(2) For the purpose of preventing and combatting fraud and error the liaison bodies of the States may share information, which may include the dates of death of the beneficiaries of a pension or benefit paid in accordance with the legislation of one State and who reside in the territory of the other State.

#### ARTICLE 60

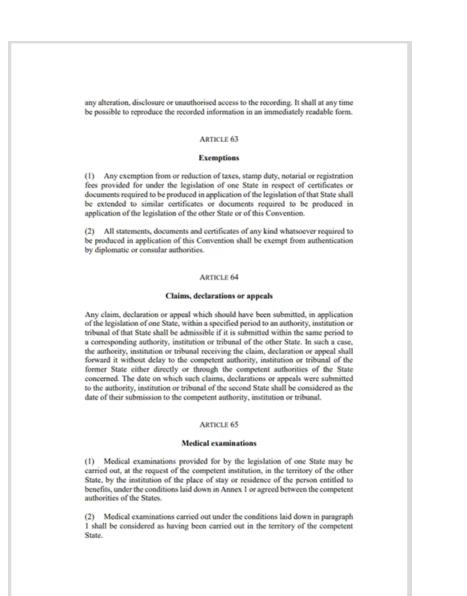
# Protection of personal data

 Any personal data received under this Convention shall be protected as such in accordance with the receiving State's domestic law.

(2) Any personal data received under this Convention shall be used solely for the purposes of this Convention and in accordance with the domestic law of the receiving State.

(3) Where one of the States wishes to use such personal data for other purposes, it shall obtain, in conformity with the domestic law of the State which provided the personal data, the prior written consent of the competent authorities or competent institutions. Such use shall be subject to any restrictions laid down by that authority or institution. **Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Switzerland) Order 2021. (See end of Document for details)

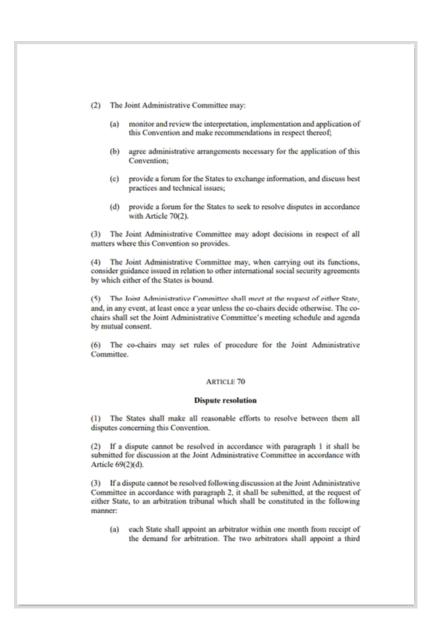


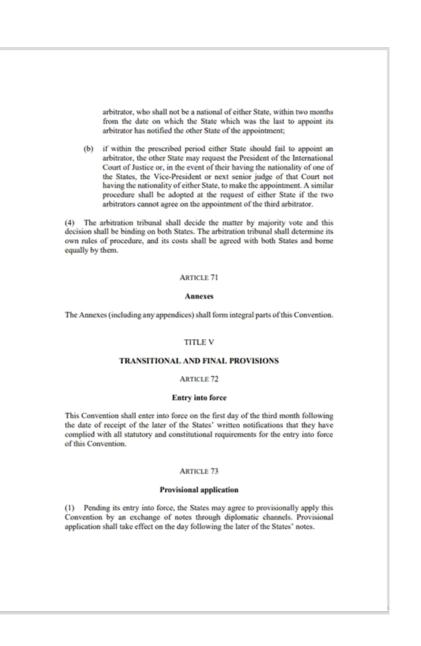


	ARTICLE 66
	Collection of contributions and recovery of benefits
a State b procedure contribut	lection of contributions due to a State and recovery of benefits provided by sut not due may be effected in the other State in accordance with the es and with the guarantees and privileges applicable to the collection of ions due to the corresponding institution of the latter State and the recovery ts provided by it but not due.
the collect benefits p and enfor the laws a the collect declared	forceable decisions of the judicial and administrative authorities relating to tion of contributions, interest and any other charges or to the recovery of provided but not due under the legislation of one State shall be recognised eed at the request of the other State within the limits and in accordance with and procedures applicable to similar decisions of the latter State concerning tion of contributions and the recovery of benefits. Such decisions shall be enforceable in that State insofar as the legislation and any other procedures at so require.
settlemen	ims of an institution of one State shall in enforcement, bankruptcy or t proceedings in the other State enjoy the same privileges as the legislation ter accords to claims of the same kind.
shall be g	procedure for implementing this Article, including costs reimbursement, overned by Annex 1 or, where necessary and as a complementary measure, of agreements between the States.
	ARTICLE 67
	Rights of institutions
injury res responsib	person receives benefits under the legislation of a State in respect of an alting from events occurring in the other State, any rights of the institution le for providing benefits against a third party liable to provide ation for the injury shall be governed by the following rules: where the institution responsible for providing benefits is, under the legislation it applies, subrogated to the rights which the beneficiary has
	against the third party, such subrogation shall be recognised by each State;
(b)	where the institution responsible for providing benefits has a direct right against the third party, each State shall recognise such rights.
injury res	person receives benefits under the legislation of one State in respect of an ulting from events occurring in the other State, the said legislation which es the cases in which the civil liability of employers or of their employees

is to be excluded shall apply with regard to the said person or to the competent institution Paragraph 1 shall also apply to any rights of the institution responsible for providing benefits against employers or their employees in cases where their liability is not excluded. (3) Where, in accordance with Articles 35(3) or 41(2), the States or their competent authorities have concluded an agreement to waive reimbursement between institutions under their jurisdiction, or, where reimbursement does not depend on the amount of benefits actually provided, any rights arising against a liable third party shall be governed by the following rules: (a) where the institution of the State of residence or stay grants benefits to a person in respect of an injury sustained in its territory, that institution, in accordance with the provisions of the legislation it applies, shall exercise the right to subrogation or direct action against the third party liable to provide compensation for the injury; (b) for the application of point (a): the person receiving benefits shall be deemed to be insured with the institution of the place of residence or stay, and (ii) that institution shall be deemed to be the institution responsible for providing benefits; (c) paragraphs 1 and 2 shall remain applicable in respect of any benefits not covered by the waiver agreement or a reimbursement which does not depend on the amount of benefits actually provided. ARTICLE 68 Implementation of legislation Special provisions for implementing the legislation of a State are referred to in Annex ARTICLE 69 Establishment and role of the Joint Administrative Committee (1) The competent authorities of the States shall establish a joint committee to be called the Joint Administrative Committee. The Joint Administrative Committee shall comprise representatives of each State. It shall be co-chaired by a representative of each State.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Switzerland) Order 2021. (See end of Document for details)





**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Switzerland) Order 2021. (See end of Document for details)

(a) Either State may terminate the provisional application of this Convention by giving written notice to the other State. Such termination shall take effect on the first out of the second month following notification.
 (b) Where this Convention is provisionally applied, the term "entry into force of the date that such provisional application takes effect.
 ARTICLE 74
 DATICLE 75, this Convention shall remain in force until the expiration of 12 months from the date on which either State receives from the other written notice through diplomatic channels of the intention of the other State to terminate this convention.
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 In the event that this Convention is terminated in accordance with Article 74, rights to cash benefits acquired by a person in accordance with the provisions of this Convention shall be maintained, if:

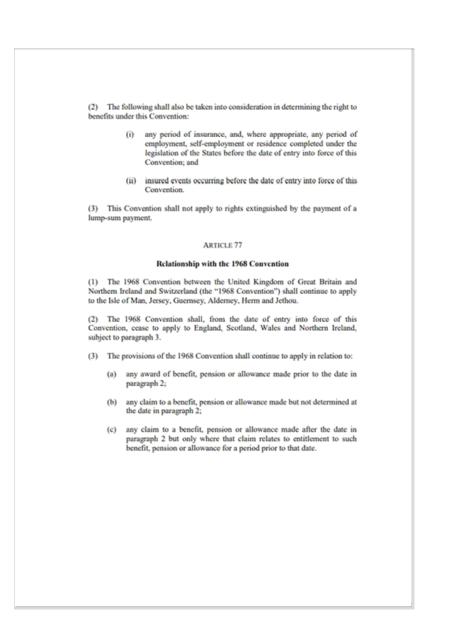
- (a) at the date of termination, they are in receipt of those cash benefits;
- (b) at or prior to the date of termination, they have lodged a claim for, and would be entitled to receive, those cash benefits; or
- (c) the only reason they are not entitled to receive those cash benefits is that they have not lodged a claim for them at or prior to the date of termination.

(2) Prior to the expiry of the period referred to in Article 74, and without prejudice to the protections in paragraph 1, the States shall commence discussions on appropriate consequential and transitional arrangements for the protection of persons affected by the termination of this Convention.

## ARTICLE 76

## **Transitional provision**

 No provision of this Convention shall confer any right to receive a benefit for any period before the date of entry into force of this Convention.



Document Generated: 2024-06-09 Changes to legislation: There are currently no known outstanding effects for the The Social Security (Switzerland) Order 2021. (See end of Document for details)

In witness whereof the undersigned, di Governments, have signed this Convention.	uly authorised by their respective
Done in duplicate at LONDON on 9 SEPTEM languages, each text being equally authentic.	HBER 2021 in the English and German
For the United Kingdom of Great Britain and Northern Ireland:	For the Swiss Confederation:
NIGEL ADAMS	ALAIN BERSET

# ANNEX 1: IMPLEMENTING PART

# TITLE I: GENERAL PROVISIONS

# CHAPTER 1

ARTICLE I

### Definitions

For the purposes of this Annex the following definitions, in addition to those contained in Article I of this Convention, apply:

- (a) "Administrative arrangements" means the arrangements necessary for the application of this Convention agreed from time to time by the Joint Administrative Committee under Article 69(2)(b) of this Convention;
- (b) "document" means a set of data, irrespective of the medium used, structured in such a way that it can be exchanged electronically and which must be communicated in order to enable the operation of this Convention;
- (c) "Joint Administrative Committee" means the committee established under Article 69 of this Convention;
- (d) "transmission by electronic means" means the transmission of data using electronic equipment for the processing (including digital compression) of data and employing wires, radio transmission, optical technologies or any other electromagnetic means.

#### CHAPTER 2

# PROVISIONS CONCERNING COOPERATION AND EXCHANGES OF DATA

#### ARTICLE 2

#### Scope and rules for exchanges between institutions

(1) For the purposes of this Annex, exchanges between authorities of the States and institutions and persons covered by this Convention shall be based on the principles of public service, efficiency, active assistance, rapid delivery and accessibility, including e-accessibility, in particular for the disabled and the elderly.

(2) The institutions shall without delay provide or exchange all data necessary for establishing and determining the rights and obligations of persons to whom this Convention applies. Such data shall be transferred between the States directly by the institutions themselves or indirectly via the liaison bodies.

(3) Where a person has mistakenly submitted information, documents or claims to an institution in the territory of a State other than that in which the institution designated in accordance with this Annex is situated, the information, documents or claims shall be resubmitted without delay by the former institution to the institution of the other State designated in accordance with this Annex, indicating the date on which they were initially submitted. That date shall be binding on the latter institution. The institutions of the States shall not, however, be held liable, or be deemed to have taken a decision by virtue of their failure to act as a result of the late transmission of information, documents or claims by States' institutions.

(4) Where data are transferred indirectly via the liaison body of the State of destination, time limits for responding to claims shall start from the date when that liaison body received the claim, as if it had been received by the institution in that State.

#### ARTICLE 3

#### Scope and rules for exchanges between the persons concerned and institutions

(1) The States shall ensure that the necessary information is made available to the persons concerned in order to inform them of the provisions introduced by this Convention and this Annex to enable them to assert their rights. They shall also provide for user-friendly services.

(2) Persons to whom this Convention applies shall be required to forward to the relevant institution the information, documents or supporting evidence necessary to establish their situation or that of their families, to establish or maintain their rights and obligations and to determine the applicable legislation and their obligations under it.

(3) To the extent necessary for the application of this Convention and this Annex, the relevant institutions shall forward the information and issue the documents to the persons concerned without delay and in all cases within any time limits specified under the legislation of the State in question.

(4) The relevant institution shall notify the claimant residing or staying in the other State of its decision directly or through the liaison body of the State of residence or stay. When refusing the benefits, it shall also indicate the reasons for refusal, the remedies and periods allowed for appeals. A copy of this decision shall be sent to other involved institutions.

#### ARTICLE 4

#### Forms, documents and methods of exchanging data

(1) Subject to Appendix 1, the structure, content and format of forms and documents issued on behalf of the States for the purposes of implementing this Convention shall be agreed by the States through the Joint Administrative Committee.

(2) The transmission of data between the institutions or the liaison bodies may, subject to the approval of the States through the Joint Administrative Committee, be carried out by way of electronic exchange. To the extent the forms and documents referred to in paragraph 1 are transmitted by electronic exchange, they shall respect the rules applicable to that system.

(3) Where the transmission of data between institutions or the liaison bodies is not carried out by way of electronic exchange, the relevant institutions and liaison bodies shall use the arrangements appropriate to each case, and favour the use of electronic means as far as possible.

(4) In their communications with the persons concerned, the relevant institutions shall use the arrangements appropriate to each case, and favour the use of electronic means as far as possible.

#### ARTICLE 5

## Legal value of documents and supporting evidence issued in the other State

(1) Documents issued by the institution of one State and showing the position of a person for the purposes of the application of this Convention and this Annex, and supporting evidence on the basis of which the documents have been issued, shall be accepted by the institutions of the other State for as long as they have not been withdrawn or declared to be invalid by the issuing State.

(2) Where there is doubt about the validity of a document or the accuracy of the facts on which the particulars contained therein are based, the institution of the State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document. The issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it.

(3) Pursuant to paragraph 2, where there is doubt about the information provided by the persons concerned, the validity of a document or supporting evidence or the accuracy of the facts on which the particulars contained therein are based, the institution of the place of stay or residence shall, insofar as this is possible, at the request of the competent institution, proceed to the necessary verification of this information or document. (4) Where no agreement is reached between the institutions concerned, the matter may be referred to the Joint Administrative Committee by the competent authorities of either State.

### ARTICLE 6

# Provisional application of legislation, granting of benefits and calculation of benefits and contributions

(1) Unless otherwise provided for in this Annex, where there is a difference of views between the institutions or authorities of the States concerning the determination of the applicable legislation, the person concerned shall be made provisionally subject to the legislation of one State, the order of priority being determined as follows:

- (a) the legislation of the State where the person actually pursues their employment or self-employment, if the employment or self-employment is pursued in only one of the States;
- (b) the legislation of the State of residence if the person concerned pursues employment or self-employment in both States, or if the person concerned is neither employed nor self-employed;
- (c) in all other cases, the legislation of the State the application of which was first requested if the person pursues an activity, or activities, in both States.

(2) Where there is a difference of views between the institutions or authorities of the States about which institution should provide the benefits in cash or in kind, the person concerned who could claim benefits if there was no dispute shall be entitled, on a provisional basis, to the benefits provided for by the legislation applied by the institution of that person's place of residence or, if that person does not reside on the territory of one of the States concerned, to the benefits provided for by the legislation applied by the institution to which the request was first submitted.

(3) Where no agreement is reached between the institutions or authorities concerned, the matter may be referred to the Joint Administrative Committee by the competent authorities of either State.

(4) Where it is established either that the applicable legislation is not that of the State of provisional membership, or the institution which granted the benefits on a provisional basis was not the competent institution, the institution identified as being competent shall be deemed retroactively to have been so, as if that difference of views had not existed, at the latest from either the date of provisional membership or of the first provisional granting of the benefits concerned. (5) If necessary, the institution identified as being competent and the institution which provisionally paid the eash benefits or provisionally received contributions shall settle the financial situation of the person concerned as regards contributions and eash benefits paid provisionally, where appropriate, in accordance with Title IV, Chapter 2 of this Annex.

(6) Benefits in kind granted provisionally by an institution in accordance with paragraph 2 shall be reimbursed by the competent institution in accordance with Title IV of this Annex.

(7) Unless otherwise provided for in this Annex, where a person is eligible for a benefit, or is liable to pay a contribution in accordance with this Convention, and the competent institution does not have all the information concerning the situation in the other State which is necessary to calculate definitively the amount of that benefit or contribution, that institution may award this benefit or calculate this contribution on a provisional basis, if such a calculation is possible on the basis of the information at the disposal of that institution.

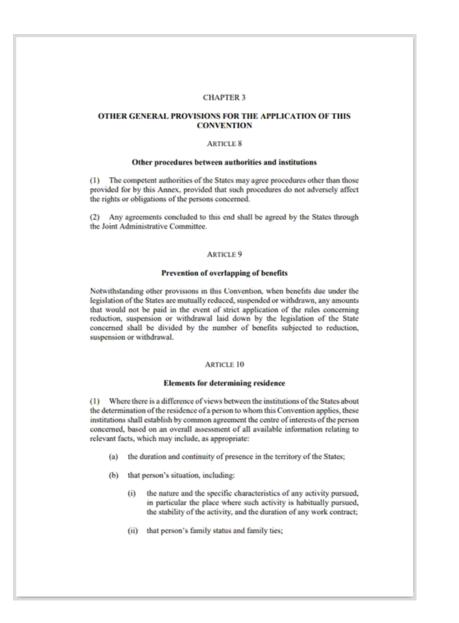
(8) The benefit or the contribution concerned shall be recalculated once all the necessary supporting evidence or documents are provided to the institution concerned.

#### ARTICLE 7

#### Periods of insurance or residence

(1) Where the only reason that a period of insurance, employment, self-employment or residence would not be considered to be such a period for the purposes of this Convention is the fact that a person does not fall within the scope of this Convention, as applied by Switzerland under Article 2(1) of this Convention, by virtue of their nationality, that period will be considered as such for the application of this Convention by the United Kingdom in relation to benefits other than benefits in kind.

(2) This Article also applies to such periods completed by members of the family of a person who does not fall within the scope of this Convention, as applied by Switzerland under Article 2(1) of this Convention, by virtue of their nationality.



- (iii) the exercise of any non-remunerated activity;
- (iv) in the case of students, the source of that student's income;
- (v) that person's housing situation, in particular how permanent it is;
- (vi) the State in which that person is deemed to reside for taxation purposes.

(2) Where the consideration of the various criteria based on relevant facts as set out in paragraph 1 does not lead to agreement between the institutions concerned, the person's intention, as it appears from such facts and circumstances, especially the reasons that led the person to move, shall be considered to be decisive for establishing that person's actual place of residence.

(3) The centre of interest of a student who goes to the other State to pursue a fulltime course of study shall not be considered as being in the State of study for the entire duration of the course of study in that State, without prejudice to the possibility of rebutting this presumption.

(4) Paragraph 3 applies mutatis mutandis to the family members of the student.

#### ARTICLE 11

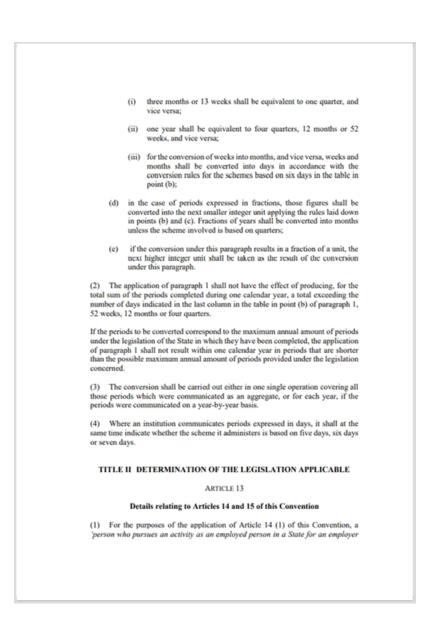
## Aggregation of periods

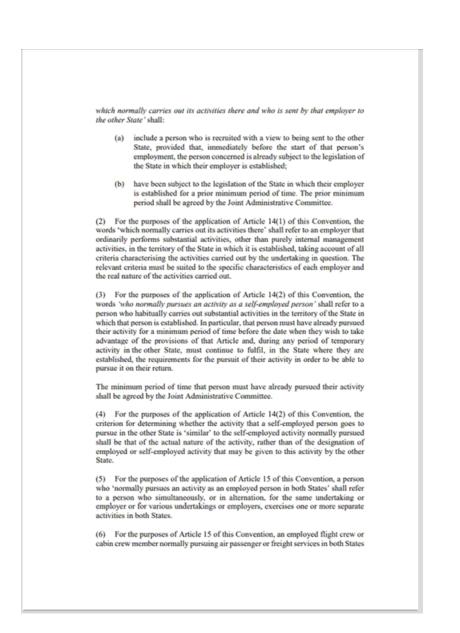
(1) For the purposes of applying Article 10 of this Convention the competent institution shall contact the institutions of the other State to whose legislation the person concerned has also been subject in order to determine all the periods completed under their legislation.

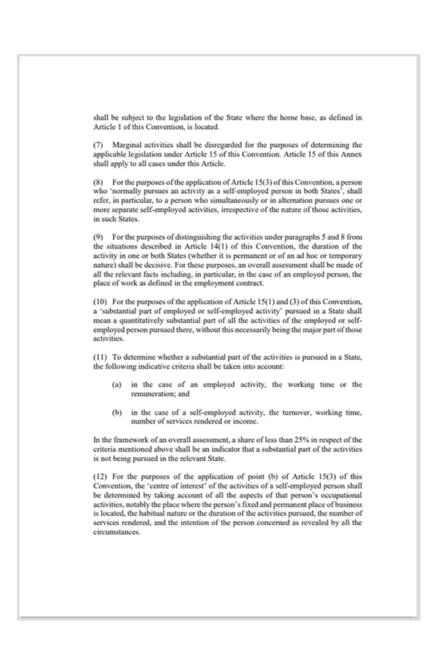
(2) The respective periods of insurance, employment, self-employment or residence completed under the legislation of a State shall be added to those completed under the legislation of the other State, insofar as necessary for the purposes of applying Article 10 of this Convention, provided that these periods do not overlap.

(3) Where a period of insurance or residence which is completed in accordance with compulsory insurance under the legislation of a State coincides with a period of insurance completed on the basis of voluntary insurance or continued optional insurance under the legislation of the other State, only the period completed on the basis of compulsory insurance shall be taken into account.

(4) Where a period of insurance or residence other than an equivalent period completed under the legislation of a State coincides with an equivalent period on the basis of the legislation of the other State, only the period other than an equivalent period shall be taken into account. (5) Any period regarded as equivalent under the legislation of both States shall be taken into account only by the institution of the State to whose legislation the person concerned was last compulsorily subject before that period. In the event that the person concerned was not compulsorily subject to the legislation of either State before that period, the latter shall be taken into account by the institution of the State to whose legislation the person concerned was compulsorily subject for the first time after that period. (6) In the event that the time in which certain periods of insurance or residence were completed under the legislation of one State cannot be determined precisely, it shall be presumed that these periods do not overlap with periods of insurance or residence completed under the legislation of the other State, and account shall be taken thereof, where advantageous to the person concerned, insofar as they can reasonably be taken into consideration. ARTICLE 12 Rules for conversion of periods (1) Where periods completed under the legislation of one State are expressed in units different from those provided for by the legislation of the other State, the conversion needed for the purpose of aggregation under Article 10 of this Convention shall be carried out under the following rules: (a) the period to be used as the basis for the conversion shall be that communicated by the institution of the State under whose legislation the period was completed; (b) in the case of schemes where the periods are expressed in days the conversion from days to other units, and vice versa, as well as between different schemes based on days shall be calculated according to the following table: Scheme 1 day l quarter corresponds Maximum of week 1 month ased on corresponds corresponds corresponds days in one calendar year 264 days 22 days 5 days 66 days 9 hours 5 days 78 days 312 days 26 days 6 davs 8 hours 6 days 30 days 360 days 7 days 6 hours 7 days 90 days in the case of schemes where the periods are expressed in units other than (c) days,







(13) For the determination of the applicable legislation under paragraphs 10, 11 and 12, the institutions concerned shall take into account the situation projected for the following 12 calendar months.

## ARTICLE 14

#### Procedures for the application of Article 13(3)(b) and Article 13(4) and Article 14 of this Convention (on the provision of information to the institutions concerned)

(1) Unless otherwise provided for by Article 15 of this Annex, where a person pursues their activity outside the competent State, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall inform the competent institution of the State whose legislation is applicable thereof, whenever possible in advance. That institution shall issue the attestation referred to in Article 17(2) of this Annex to the person concerned and shall without delay make information concerning the legislation applicable to that person, available to the institution designated by the competent authority of the State in which the activity is pursued.

(2) An employer within the meaning of Article 13(4) of this Convention who has an employee on board a vessel flying the flag of the other State shall inform the competent institution of the State whose legislation is applicable thereof, whenever possible in advance. That institution shall, without delay, make information concerning the legislation applicable to the person concerned, pursuant to Article 13(4) of this Convention, available to the institution designated by the competent authority of the State whose flag the vessel on which the employee is to perform the activity is flying.

#### ARTICLE 15

#### Procedure for the application of Article 15 of this Convention

 A person who pursues activities in both States shall inform the institution designated by the competent authority of the State of residence thereof.

(2) The designated institution of the place of residence shall without delay determine the legislation applicable to the person concerned, having regard to Article 15 of this Convention and Article 13 of this Annex. That initial determination shall be provisional. The institution shall inform the designated institutions of each State in which an activity is pursued of its provisional determination.

(3) The provisional determination of the applicable legislation, as provided for in paragraph 2, shall become definitive within two months of the institutions designated by the competent authorities of the State(s) concerned being informed of it, in accordance with paragraph 2, unless the legislation has already been definitively determined on the basis of paragraph 4, or at least one of the institutions concerned informs the institution designated by the competent authority of the State of residence by the end of this two-month period that it cannot yet accept the determination or that it takes a different view on this.

(4) Where uncertainty about the determination of the applicable legislation requires contacts between the institutions or authorities of both States, at the request of one or more of the institutions designated by the competent authorities of the State(s), or of the competent authorities themselves, the legislation applicable to the person concerned shall be determined by common agreement, having regard to Article 15 of this Convention and the relevant provisions of Article 13 of this Annex.

Where there is a difference of views between the institutions or competent authorities concerned, those bodies shall seek agreement in accordance with the conditions set out above and Article 6 of this Annex shall apply.

(5) The competent institution of the State whose legislation is determined to be applicable either provisionally or definitively shall without delay inform the person concerned.

(6) If the person concerned fails to provide the information referred to in paragraph 1, this Article shall be applied at the initiative of the institution designated by the competent authority of the State of residence as soon as it is appraised of that person's situation, possibly via another institution concerned.

#### ARTICLE 16

#### Procedure for the application of Article 17 of this Convention

A request by the employer or the person concerned for exceptions to Articles 13 to 15 of this Convention shall be submitted, whenever possible in advance, to the competent authority or the body designated by the authority of the State, whose legislation the employee or person concerned requests be applied.

#### ARTICLE 17

#### Provision of information to persons concerned and employers

(1) The competent institution of the State whose legislation becomes applicable pursuant to Title II of this Convention shall inform the person concerned and, where appropriate, their employer(s) of the obligations laid down in that legislation. It shall provide them with the necessary assistance to complete the formalities required by that legislation. <text><section-header><section-header><list-item><list-item><list-item><list-item><list-item><list-item>

#### TITLE III SPECIAL PROVISIONS CONCERNING THE VARIOUS CATEGORIES OF BENEFITS

# CHAPTER 1

# SICKNESS, MATERNITY AND EQUIVALENT PATERNITY BENEFITS

## ARTICLE 20

#### General implementing provisions

(1) The competent authorities or institutions shall ensure that any necessary information is made available to insured persons regarding the procedures and conditions for the granting of benefits in kind where such benefits are received in the territory of a State other than that of the competent institution.

(2) The competent authorities or institutions shall ensure that any necessary information, including but not limited to information related to receipt of benefits and contribution history, is made available to insured persons to assist in the granting of benefits in the other State.

(3) Notwithstanding point (a) of Article 9 of this Convention, a State may become responsible for the cost of benefits in accordance with Article 25 of this Convention only if, either the insured person has made a claim for a pension under the legislation of that State, or in accordance with Articles 26 to 31 of this Convention, they receive a pension under the legislation of that State.

#### ARTICLE 21

## Residence in a State other than the competent State

## Procedure and scope of right

(1) For the purposes of the application of Article 20 of this Convention, the insured person or members of that person's family shall be obliged to register promptly with the institution of the place of residence. Their right to benefits in kind in the State of residence shall be certified by a document issued by the competent institution upon request of the insured person or upon request of the institution of the place of residence.

(2) The document referred to in paragraph 1 shall remain valid until the competent institution informs the institution of the place of residence of its cancellation.

The institution of the place of residence shall inform the competent institution of any registration under paragraph 1 and of any change or cancellation of that registration.

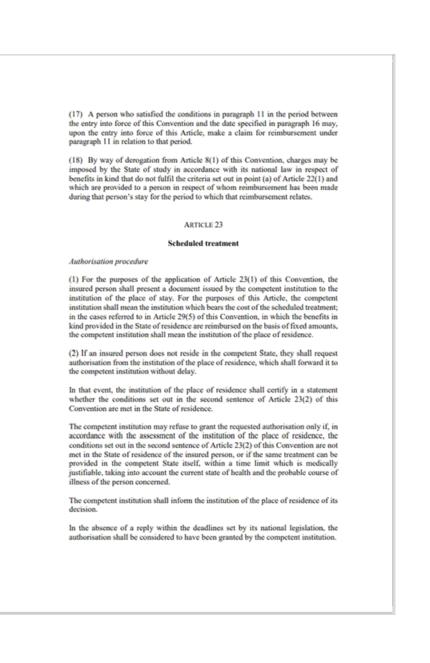
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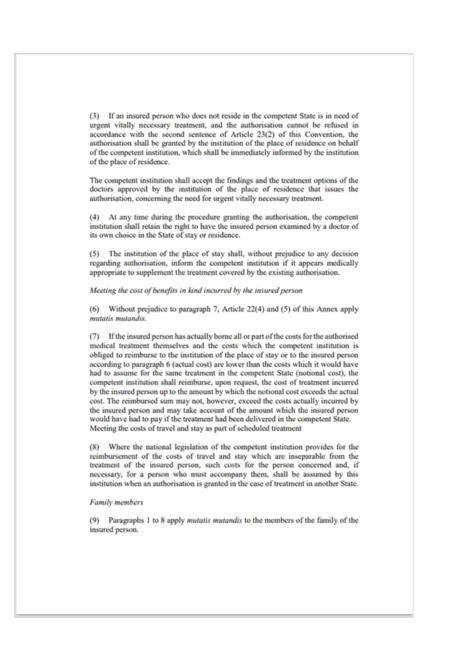
	(3) This Article applies <i>mutatis mutandis</i> to the persons referred to in Articles 25, 27 and 28 of this Convention.				
	Reimbursement				
	(4) Where a person or the members of that person's family:				
	<ul> <li>have been issued with the document referred to in paragraph 1;</li> </ul>				
	(b) have registered that document with the institution of the place of residence in accordance with paragraph 1; and				
	(c) a health fee has been paid by or on behalf of the person or members of their family to the State of residence as part of an application for a permit to enter, stay, work or reside in that State,				
	that person or members of that person's family may apply to the institution of the State of residence for reimbursement (in whole or part, as the case may be) of the health fee paid.				
	(5) Where a claim is made in accordance with paragraph 1, the institution of the State of residence shall determine that claim within three calendar months, starting on the day the claim was received, and shall make any reimbursement in accordance with this Article.				
	(6) Where the period of validity of the document referred to in paragraph 1 is less than the period of time in respect of which the health fee has been paid, the amount reimbursed shall not exceed that portion of the health fee which corresponds to the period for which the document had been issued.				
	(7) Where the health fee was paid by another person on behalf of a person to whom this Article applies, reimbursement may be made to that other person.				
	ARTICLE 22				
Stay outside the competent State					
	Procedure and scope of right				
	(1) For the purposes of the application of Article 22 of this Convention, the insured person shall present to the health care provider in the State of stay an entitlement document issued by the competent institution indicating their entitlement to benefits in kind. If the insured person does not have such a document, the institution of the place of stay, upon request or if otherwise necessary, shall contact the competent institution in order to obtain one.				
	(2) That document shall satisfy the requirements in Appendix 1.				

(3) The benefits in kind referred to in Article 22(1) of this Convention shall refer (c) The objects in kind refered to in Article 22(1) of this contention man refer to the benefits in kind which are provided in the State of stay, in accordance with its legislation, and which become necessary on medical grounds with a view to preventing an insured person from being forced to return, before the end of the planned duration of stay, to the competent State to obtain the necessary treatment. Procedure and arrangements for meeting the costs and providing reimbursement of benefits in kind (4) If the insured person has actually borne the costs of all or part of the benefits in kind provided within the framework of Article 22 of this Convention and if the legislation applied by the institution of the place of stay enables reimbursement of those costs to an insured person, they may send an application for reimbursement to the institution of the place of stay. In that case, that institution shall reimburse directly to that person the amount of the costs corresponding to those benefits within the limits of and under the conditions of the reimbursement rates laid down in its legislation. (5) If the reimbursement of such costs has not been requested directly from the institution of the place of stay, the costs incurred shall be reimbursed to the person concerned by the competent institution in accordance with the reimbursement rates administered by the institution of the place of stay or the amounts which would have been subject to reimbursement to the institution of the place of stay, if Article 44 of this Annex had applied in the case concerned. The institution of the place of stay shall provide the competent institution, upon request, with all necessary information about these rates or amounts. (6) By way of derogation from paragraph 5, the competent institution may undertake the reimbursement of the costs incurred within the limits of and under the conditions of the reimbursement rates laid down in its legislation, provided that the insured person has agreed to this provision being applied to them. (7) If the legislation of the State of stay does not provide for reimbursement pursuant to paragraphs 4 and 5 in the case concerned, the competent institution may reimburse the costs within the limits of and under the conditions of the reimbursement rates laid down in its legislation, without the agreement of the insured person. (8) The reimbursement to the insured person shall not, in any event, exceed the amount of costs actually incurred by them (9) In the case of substantial expenditure, the competent institution may pay the insured person an appropriate advance as soon as that person submits the application for reimbursement to it.

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E	amily me	mbers	
(1		graphs 1 to 9 apply mutatis mutandis to the members of the family of the	
		ment for students	
(1	(11) Where a person:		
	(a)	holds a valid entitlement document referred to in Appendix 1 issued by the competent institution;	
	(b)	has been accepted by a higher education institution in a State other than the competent State ("State of study") to pursue a full-time course of study leading to a higher education qualification recognised by that State, including diplomas, certificates or doctoral degrees at a higher education institution, which may cover a preparatory course prior to such education, in accordance with national law, or compulsory training;	
	(c)	does not exercise, or has not exercised, an activity as an employed or self-employed person in the State of study during the period to which the health fee relates; and	
	(d)	a health fee has been paid by or on behalf of that person to the State of study as part of an application for a permit to enter, stay or reside for the purposes of pursuing a full-time course of study in that State;	
	that person may apply to the institution of the State of study for reimbursement (in whole or part, as the case may be) of the health fee paid.		
St	tate of stu ter than s	re a claim is made in accordance with paragraph 11, the institution of the udy shall process and settle that claim within a reasonable period but not ix calendar months starting on the day the claim was received and make reservent in accordance with this Article.	
(a ha	) of para is been p	re the period of validity of the entitlement document referred to in point graph 11 is less than the period of time in respect of which the health fee wid, the amount of the health fee reimbursed shall be the amount paid esponds to the period of validity of that document.	
	(14) Where the health fee was paid by another person on behalf of a person to whom this Article applies, reimbursement may be made to that other person.		
	(15) Paragraphs 11 to 14 apply mutatis mutandis to the members of the family of that person.		
	(16) This Article shall enter into force 12 months after the date of entry into force of this Convention.		







**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Switzerland) Order 2021. (See end of Document for details)

(8) For the purposes of the application of Article 24(1) of this Convention, the particulars of the certificate of incapacity for work of an insured person drawn up in the State which is not competent on the basis of the medical findings of the examining doctor or institution shall have the same legal value as a certificate drawn up in the competent State.

(9) If the competent institution refuses the cash benefits, it shall notify its decision to the insured person and at the same time to the institution of the place of residence

Procedure in the event of a stay in a State other than the competent State

(10) Paragraphs 1 to 9 apply *mutatis mutandis* when the insured person stays in the State that is not the competent State.

### CHAPTER 2

## BENEFITS IN RESPECT OF ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

#### ARTICLE 25

Right to benefits in kind and in eash in the event of residence or stay in the State that is not the competent State

 For the purposes of the application of Article 36 of this Convention, the procedures laid down in Articles 21 to 24 of this Annex apply *mutatis mutandis*.

(2) When providing special benefits in kind in connection with accidents at work and occupational diseases under the national legislation of the State of stay or residence, the institution of that State shall without delay inform the competent institution.

### ARTICLE 26

# Procedure in the event of an accident at work or occupational disease which occurs in the State that is not the competent State

(1) If an accident at work occurs or an occupational disease is diagnosed for the first time in the State that is not the competent State, the declaration or notification of the accident at work or the occupational disease, where the declaration or notification exists under national legiclation, shall be carried out in accordance with the legislation of the competent State, without prejudice, where appropriate, to any other applicable legal provisions in force in the State in which the accident at work occurred or in which the first medical diagnosis of the occupational disease was made, which remain applicable in such cases. The declaration or notification shall be addressed to the competent institution.

(2) The institution of the State in the territory of which the accident at work occurred or in which the occupational disease was first diagnosed, shall notify the competent institution of medical certificates drawn up in the territory of that State.(3) Where, as a result of an accident while travelling to or from work which occurs

In the territory of the State that is not the competent State, an inquiry is necessary in the territory of the first State in order to determine any entitlement to relevant benefits, a person may be appointed for that purpose by the competent institution, which shall inform the authorities of that State. The institutions shall cooperate with each other in order to assess all relevant information and to consult the reports and any other documents relating to the accident.

(4) Following treatment, a detailed report accompanied by medical certificates relating to the permanent consequences of the accident or disease, in particular the injured person's present state and the recovery or stabilisation of injuries, shall be sent upon request of the competent institution. The relevant fees shall be paid by the institution of the place of residence or of stay, where appropriate, at the rate applied by that institution to the charge of the competent institution.

(5) At the request of the institution of the place of residence or stay, where appropriate, the competent institution shall notify it of the decision setting the date for the recovery or stabilisation of injuries and, where appropriate, the decision concerning the granting of a pension.

#### ARTICLE 27

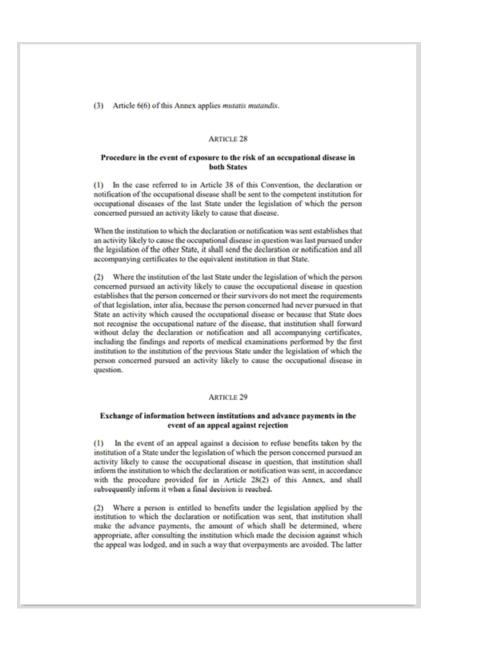
## Disputes concerning the occupational nature of the accident or disease

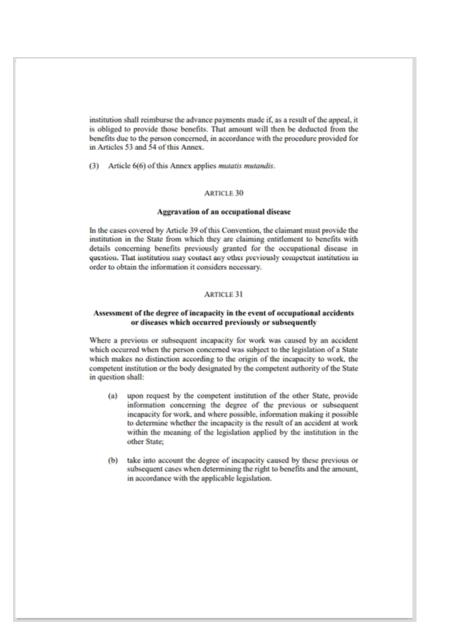
(1) Where the competent institution disputes the application of the legislation relating to accidents at work or occupational diseases under Article 36(2) of this Convention, it shall without delay inform the institution of the place of residence or stay which provided the benefits in kind, which will then be considered as sickness insurance benefits.

(2) When a final decision has been taken on that subject, the competent institution shall, without delay, inform the institution of the place of residence or stay which provided the benefits in kind.

Where an accident at work or occupational disease is not established, benefits in kind shall continue to be provided as sickness benefits if the person concerned is entitled to them.

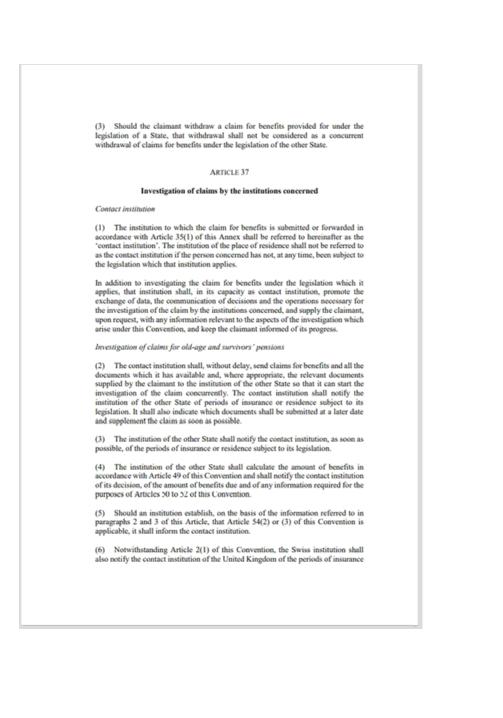
Where an accident at work or occupational disease is established, sickness benefits in kind provided to the person concerned shall be considered as accident at work or occupational disease benefits from the date on which the accident at work occurred or the occupational disease was first medically diagnosed.

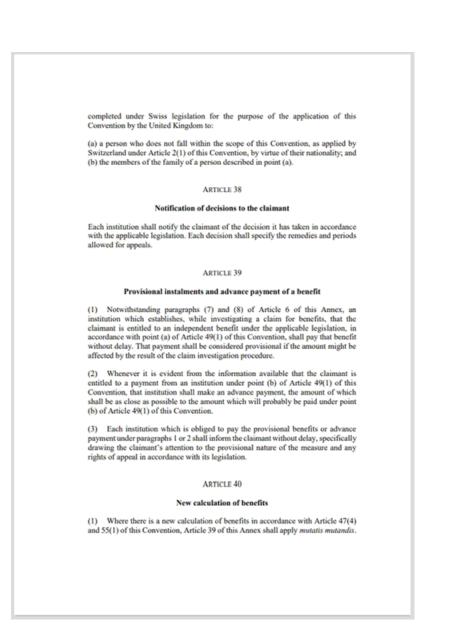


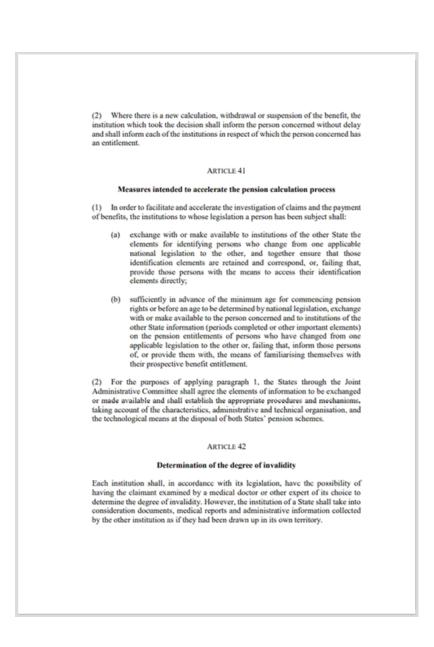


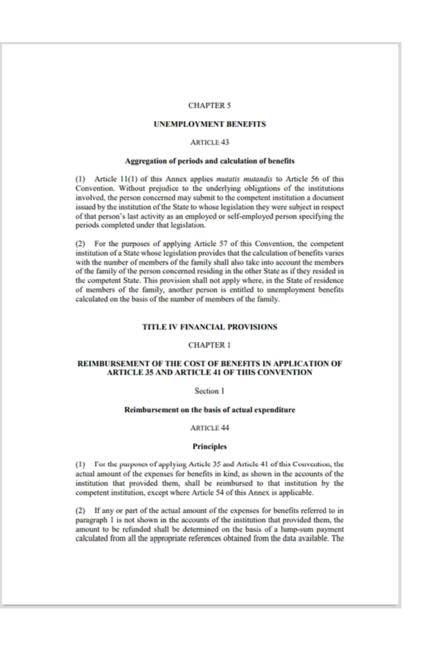
ARTICLE 32
Submission and investigation of claims for pensions or supplementary
allowances
In order to receive a pension or supplementary allowance under the legislation of a State, the person concerned or their survivors residing in the territory of the other State shall submit, where appropriate, a claim either to the competent institution or to the institution of the place of residence, which shall send it to the competent institution.
The claim shall contain the information required under the legislation applied by the competent institution.
CHAPTER 3
DEATH GRANTS
ARTICLE 33
Claim for death grants
For the purposes of applying Articles 42 and 43 of this Convention, the claim for death grants shall be sent either to the competent institution or to the institution of the claimant's place of residence, which shall send it to the competent institution. The claim shall contain the information required under the legislation applied by the competent institution.
CHAPTER 4
INVALIDITY BENEFITS AND OLD-AGE AND SURVIVORS' PENSIONS
ARTICLE 34
Additional provisions for the calculation of the benefit
(1) For the purposes of calculating the theoretical amount and the actual amount of the benefit in accordance with Article 49(1)(b) of this Convention, the rules provided for in Article 11(3), (4), (5) and (6) of this Annex shall apply.
(2) Where periods of voluntary or optional continued insurance have not been taken into account under Article 11(3) of this Annex, the institution of the State under whose legislation those periods were completed shall calculate the amount corresponding to those periods under the legislation it applies. The actual amount of the benefit, calculated in accordance with Article 49(1)(b) of this Convention, shall

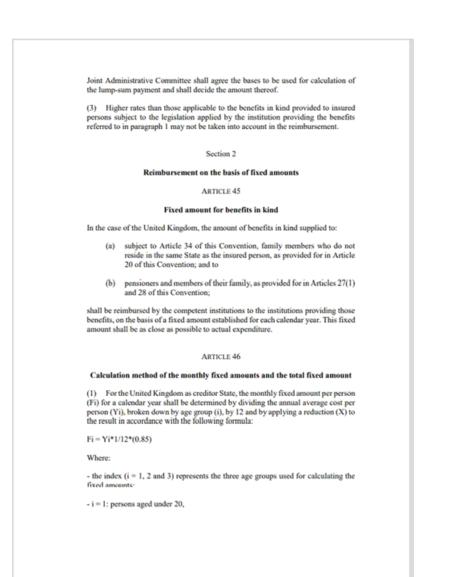












- i = 2: persons aged from 20 to 64,

- i = 3: persons aged 65 and over,

- Yi represents the annual average cost per person in age group  $i,\ as$  defined in paragraph 2.

(2) The annual average cost per person (Yi) in age group i shall be obtained by dividing the annual expenditure on all benefits in kind provided by the institutions of the United Kingdom to all persons in the age group concerned subject to its legislation and residing within its territory by the average number of persons concerned in that age group in the calendar year in question.

(3) For the United Kingdom as debtor State, the total fixed amount for a calendar year shall be the sum of the products obtained by multiplying, in each age group i, the determined monthly fixed amounts per person by the number of months completed by the persons concerned in Switzerland in that age group.

The number of months completed by the persons concerned in Switzerland shall be the sum of the calendar months in a calendar year during which the persons concerned were, because of their residence in Switzerland, eligible to receive benefits in kind in that territory at the expense of the United Kingdom. Those months shall be determined from an inventory kept for that purpose by the institution of the place of residence, based on documentary evidence of the entitlement of the beneficiaries supplied by the competent institution.

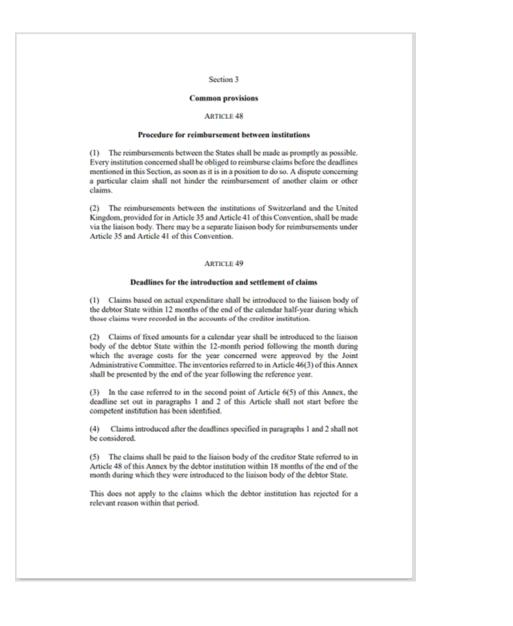
(4) The Joint Administrative Committee may agree a proposal containing any amendments which may prove necessary in order to ensure that the calculation of fixed amounts comes as close as possible to the actual expenditure incurred.

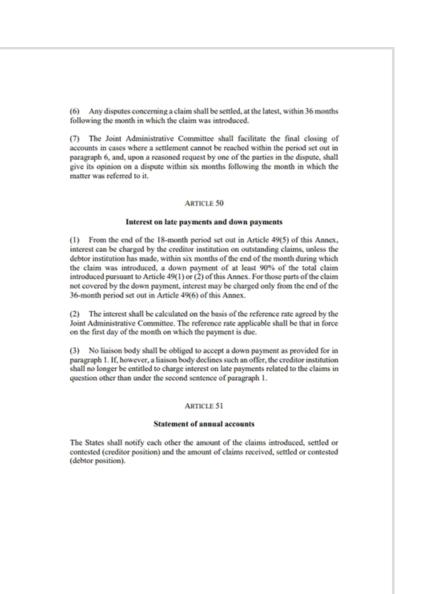
(5) The Joint Administrative Committee shall agree the methods for determining the elements for calculating the fixed amounts referred to in paragraphs 1 to 4.

### ARTICLE 47

## Notification of annual average costs

The annual average cost per person in each age group for a specific year shall be notified to the Joint Administrative Committee at the latest by the end of the second year following the year in question. If the notification is not made by this deadline, the annual average cost per person which the Joint Administrative Committee has last determined for a previous year will be taken.







concerned. After the latter institution has informed the institution that has paid an undue sum of these arrears, the institution which has paid the undue sum shall within two months communicate the amount of the undue sum. If the institution which is due to pay arrears receives that communication within the deadline it shall transfer the amount deducted to the institution which has paid undue sums. If the deadline expires, that institution shall without delay pay out the arrears to the person concerned.

(3) If a person has received social welfare assistance in one State during a period in which they were entitled to benefits under the legislation of the other State, the body which provided the assistance may, if it is legally entitled to reclaim the benefits due to the person concerned, request the institution of the other State responsible for paying benefits in favour of the person concerned to deduct the amount of assistance paid from the amounts which that State pays to the person concerned.

This provision applies *mutatis mutandis* to any family member of a person concerned who has received assistance in the territory of one State during a period in which the insured person was entitled to benefits under the legislation of the other State in respect of that family member.

The institution of a State which has paid an undue amount of assistance shall send a statement of the amount due to the institution of the other State, which shall then deduct the amount, subject to the conditions and limits laid down for this kind of offsetting procedure in accordance with the legislation it applies, and transfer the amount without delay to the institution that has paid the undue amount.

#### ARTICLE 54

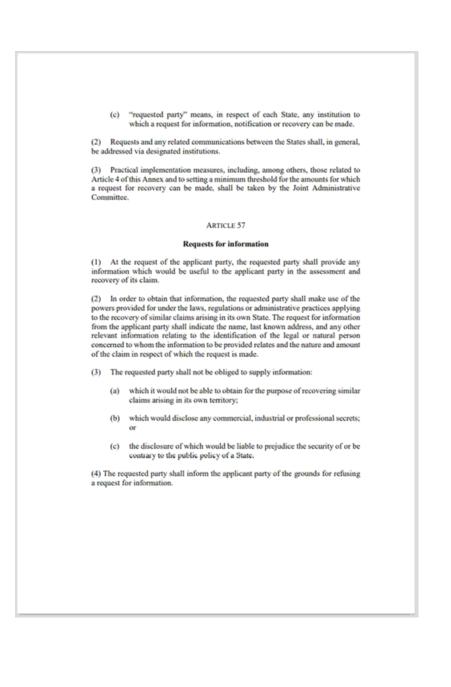
### Provisionally paid benefits in cash or contributions

(1) For the purposes of applying Article 6 of this Annex, at the latest three months after the applicable legislation has been determined or the institution responsible for paying the benefits has been identified, the institution which provisionally paid the cash benefits shall draw up a statement of the amount provisionally paid and shall send it to the institution identified as being competent.

The institution identified as being competent for paying the benefits shall deduct the amount due in respect of the provisional payment from the arrears of the corresponding benefits it owes to the person concerned and shall without delay transfer the amount deducted to the institution which provisionally paid the cash benefits.

If the amount of provisionally paid benefits exceeds the amount of arcears, or if arcears do not exist, the institution identified as being competent shall deduct this amount from ongoing payments subject to the conditions and limits applying to this kind of offsetting procedure under the legislation it applies, and without delay

transfer the amount deducted to the institution which provisionally paid the cash benefits. (2) The institution which has provisionally received contributions from a legal or natural person shall not reimburse the amounts in question to the person who paid them until it has ascertained from the institution identified as being competent the sums due to it under Article 6(4) of this Annex. Upon request of the institution identified as being competent, which shall be made at the latest three months after the applicable legislation has been determined, the institution that has provisionally received contributions shall transfer them to the institution identified as being competent for that period for the purpose of settling the situation concerning the contributions owed by the legal or natural person to it. The contributions transferred shall be retroactively deemed as having been paid to the institution identified as being competent. If the amount of provisionally paid contributions exceeds the amount the legal or natural person owes to the institution identified as being competent, the institution which provisionally received contributions shall reimburse the amount in excess to the legal or natural person concerned. ARTICLE 55 Costs related to offsetting No costs are payable where the debt is recovered via the offsetting procedure provided for in Articles 53 and 54 of this Annex. Section 3 Recovery ARTICLE 56 Definitions and common provisions (1) For the purposes of this Section: "claim" means all claims relating to contributions or to benefits paid or (a) provided unduly, including interest, fines, administrative penalties and all other charges and costs connected with the claim in accordance with the legislation of the State making the claim; (b) "applicant party" means, in respect of each State, any institution which makes a request for information, notification or recovery concerning a claim as defined above;



1			
ARTICLE 58			
Notification			
(1) The requested party shall, at the request of the applicant party, and in accordance with the rules in force for the notification of similar instruments or decisions in its own territory, notify the addressee of all instruments and decisions, including those of a judicial nature, which come from the State of the applicant party and which relate to a claim or to its recovery.			
(2) The request for notification shall indicate the name, address and any other relevant information relating to the identification of the addressee concerned to which the applicant party normally has access, the nature and the subject of the instrument or decision to be notified and, if necessary, the name, address and any other relevant information relating to the identification of the debtor and the claim to which the instrument or decision relates, and any other useful information.			
(3) The requested party shall without delay inform the applicant party of the action taken on its request for notification and, particularly, of the date on which the decision or instrument was forwarded to the addressee.			
ARTICLE 59			
Request for recovery			
(1) At the request of the applicant party, the requested party shall recover claims that are the subject of an instrument permitting enforcement issued by the applicant party to the extent permitted by and in accordance with the laws and administrative practices in force in the State of the requested party.			
(2) The applicant party may only make a request for recovery if:			
<ul> <li>(a) it also provides to the requested party an official or certified copy of the instrument permitting enforcement of the claim in the State of the applicant party;</li> </ul>			
<li>(b) the claim or instrument permitting its enforcement are not contested in its own State;</li>			
(c) it has, in its own State, applied appropriate recovery procedures available to it on the basis of the instrument referred to in paragraph 1, and the measures taken will not result in the payment in full of the claim;			
(d) the period of limitation according to its own legislation has not expired.			
(3) The request for recovery shall indicate:			

- (a) the name, address and any other relevant information relating to the identification of the natural or legal person concerned or to the identification of any third party holding that person's assets;
- (b) the name, address and any other relevant information relating to the identification of the applicant party;
- (c) a reference to the instrument permitting its enforcement, issued in the State of the applicant party;
- (d) the nature and amount of the claim, including the principal, interest, fines, administrative penalties and all other charges and costs due indicated in the currencies of the State(s) of the applicant and requested parties;
- the date of notification of the instrument to the addressee by the applicant party or by the requested party;
- (f) the date from which and the period during which enforcement is possible under the laws in force in the State of the applicant party;
- (g) any other relevant information.

(4) The request for recovery shall also contain a declaration by the applicant party confirming that the conditions laid down in paragraph 2 have been fulfilled.

(5) The applicant party shall forward to the requested party any relevant information relating to the matter which gave rise to the request for recovery, as soon as this comes to its knowledge.

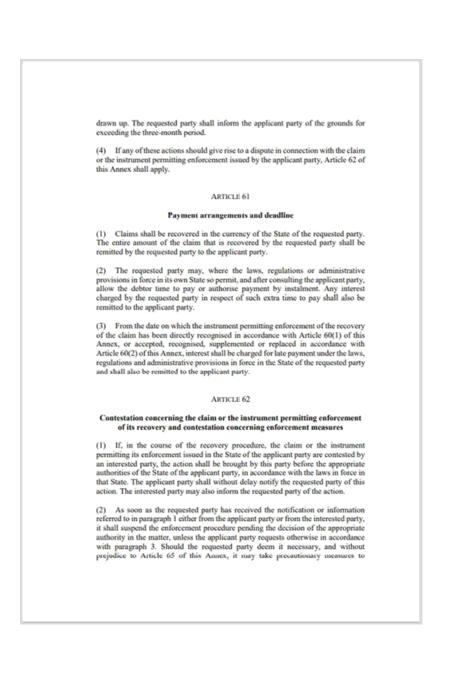
### ARTICLE 60

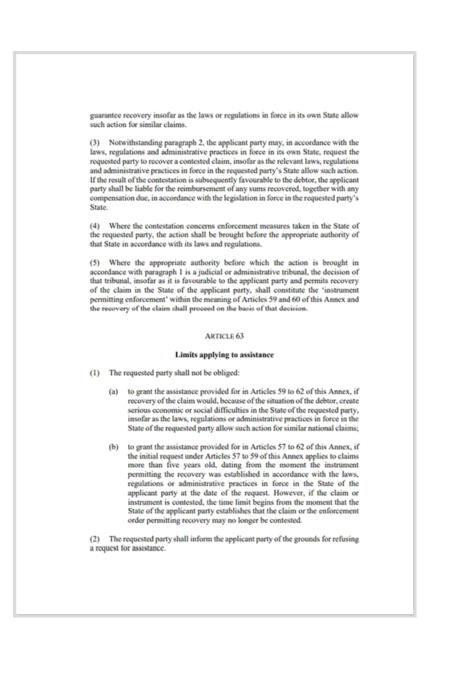
### Instrument permitting enforcement of recovery

(1) In accordance with Article 66(2) of this Convention, the instrument permitting enforcement of the claim shall be directly recognised and treated automatically as an instrument permitting the enforcement of a claim of the State of the requested party.

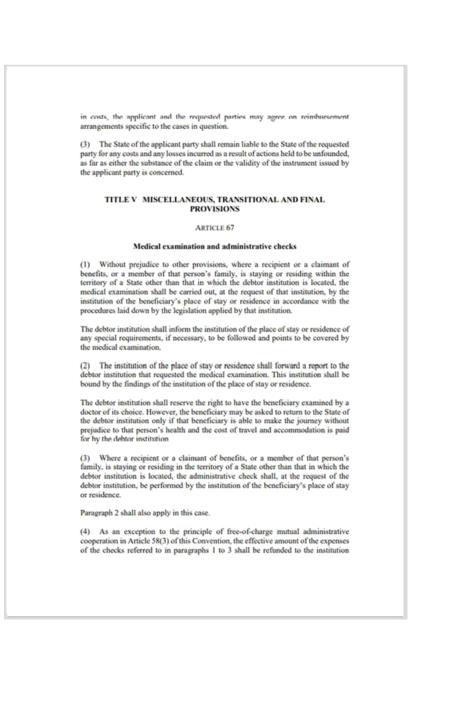
(2) Notwithstanding paragraph 1, the instrument permitting enforcement of the claim may, where appropriate and in accordance with the provisions in force in the State of the requested party, be accepted as, recognised as, supplemented with, or replaced by an instrument authorising enforcement in the territory of that State.

(3) Within three months of the date of receipt of the request for recovery, the State shall endeavour to complete the acceptance, recognition, supplementing or replacement, except in cases where paragraph 4 applies. States may not refuse to complete these actions where the instrument permitting enforcement is properly





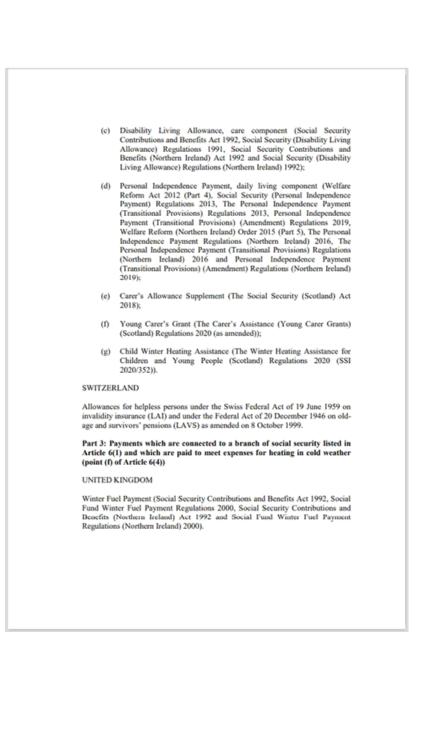
	ARTICLE 64
	Periods of limitation
(1) Que	estions concerning periods of limitation shall be governed as follows:
(a)	by the laws in force in the State of the applicant party, insofar as they concern the claim or the instrument permitting its enforcement; and
(b)	by the laws in force in the State of the requested party, insofar as they concern enforcement measures in the requested State.
party shal	ieds of limitation according to the laws in force in the State of the requested Il start from the date of direct recognition or from the date of acceptance, on, supplementing or replacement in accordance with Article 60 of this
request fo would ha according	ps taken in the recovery of claims by the requested party in pursuance of a or assistance, which, if they had been carried out by the applicant party, we had the effect of suspending or interrupting the period of limitation g to the laws in force in the State of the applicant party, shall be deemed to n taken in the latter State, insofar as that effect is concerned.
	ARTICLE 65
	Precautionary measures
precautio	on reasoned request by the applicant party, the requested party shall take nary measures to ensure recovery of a claim insofar as the laws and ns in force in the State of the requested party so permit.
	the purposes of implementing the first paragraph, the provisions and es laid down in Articles 59, 60, 62 and 63 of this Annex shall apply <i>mutatis</i>
	ARTICLE 66
	Costs related to recovery
and retain	e requested party shall recover from the natural or legal person concerned a any costs linked to recovery which it incurs, in accordance with the laws ations of the State of the requested party that apply to similar claims.
	tual assistance afforded under this Section shall, as a rule, be free of charge, where recovery poses a specific problem or concerns a very large amount



which was requested to carry them out by the debtor institution which requested them. ARTICLE 68 Notifications The States shall notify the Joint Administrative Committee of the details of the bodies and entities defined in Article 1 of this Convention and of the institutions designated in accordance with this Annex. (2) The bodies specified in paragraph 1 shall be provided with an electronic identity in the form of an identification code and electronic address. (3) The Joint Administrative Committee shall agree the structure, content and detailed arrangements, including the common format and model, for notification of the details specified in paragraph 1. (4) The States shall be responsible for keeping the information specified in paragraph 1 up to date. ARTICLE 69 Currency conversion For the purposes of applying this Convention and this Annex, the exchange rate between two currencies shall be the reference rate agreed by the Joint Administrative Committee. The date to be taken into account for determining the exchange rate shall be agreed by the Joint Administrative Committee and set out in the administrative arrangements. ARTICLE 70 Interim provisions for forms and documents For an interim period, the end date of which shall be agreed by the Joint Administrative Committee, all forms and documents issued by the competent institutions in the format used immediately before this Convention comes into force shall be valid for the purposes of implementing this Convention and, where appropriate, shall continue to be used for the exchange of information between competent institutions. All such forms and documents issued before and during that interim period shall be valid until their expiry or caucellation.

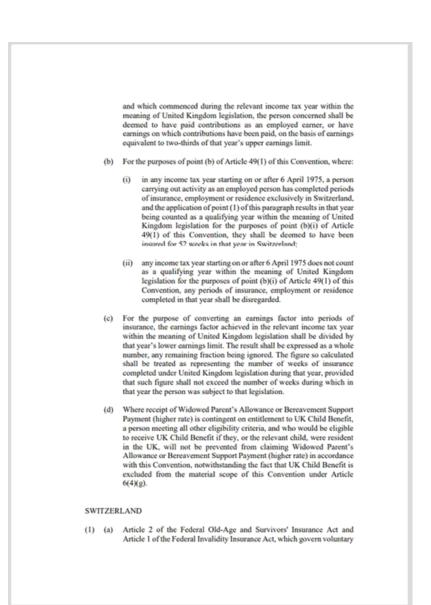
	APPENDIX 1	
Entitlem	ent document (Articles 22 and 29(1) of this Convention and Article 22 of this Annex)	
<ol> <li>Entitlement documents valid for the purposes of Articles 22 and 29(1) of this Convention shall contain the following data:</li> </ol>		
(a)	surname and forename of the document holder;	
(b)	personal identification number of the document holder;	
(c)	date of birth of the document holder;	
(d)	expiry date of the document;	
(c)	the code "UK" in lieu of the ISO code of the United Kingdom or the ISO code of Switzerland, as the case may be;	
(f)	identification number and acronym of the competent institution issuing the document;	
(g)	logical number of the document;	
(h)	in the case of a provisional document, the date of issue and date of delivery of the document, and the signature and stamp of the competent institution.	
(2) The technical specifications of entitlement documents shall be agreed by both States through the Joint Administrative Committee in order to facilitate the acceptance of the respective documents by institutions of the States providing the benefits in kind.		
ANN	EX 2: CERTAIN BENEFITS TO WHICH THIS CONVENTION SHALL NOT APPLY	
Part 1: S	pecial non-contributory cash benefits (point (a) of Article 6(4))	
UNITED KINGDOM		
UNITED	State Pension Credit (State Pension Credit Act 2002 and State Pension	
	Credit Act (Northern Ireland) 2002);	

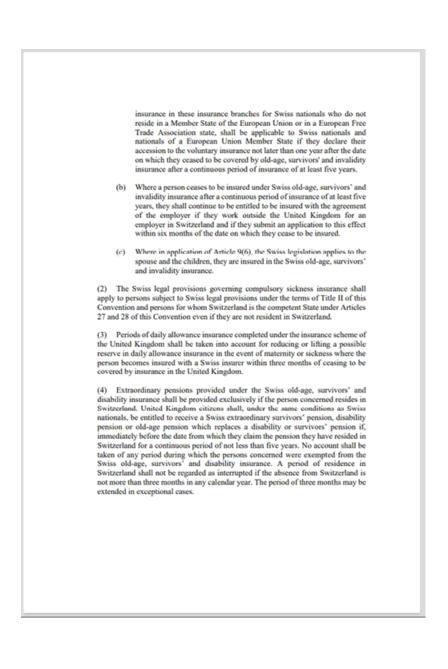
Contributions a	ng Allowance, mobility component (Social Security nd Benefits Act 1992 and Social Security Contributions orthern Ireland) Act 1992);		
	ndence Payment, mobility component (Welfare Reform 4) and Welfare Reform (Northern Ireland) Order 2015		
	d Support Allowance Income-related (Welfare Reform /elfare Reform Act (Northern Ireland) 2007);		
	s payment (Welfare Foods (Best Start Foods) (Scotland) 9 (SSI 2019/193));		
school-age grat	nts (pregnancy and baby grant, early learning grant, nt) (The Early Years Assistance (Best Start Grants) lations 2018 (SSI 2018/370));		
	rt Payment (Funeral Expense Assistance (Scotland) 9 (SSI 2019/292));		
(i) Scottish Child I (SSI 2020/351))	Payment (The Scottish Child Payment Regulations 2020		
SWITZERLAND			
	benefits (Federal Supplementary Benefits Act of 6 and similar benefits provided for under cantonal		
	ry mixed benefits in the event of unemployment, as der cantonal legislation.		
Part 2: Long-term care be	nefits (point (d) of Article 6(4))		
UNITED KINGDOM			
1992, Social Se Security Contri	owance (Social Security Contributions and Benefits Act curity (Attendance Allowance) Regulations 1991, Social butions and Benefits (Northern Ireland) Act 1992 and (Attendance Allowance) Regulations (Northern Ireland)		
1992, The Social Social Security	nce (Social Security Contributions and Benefits Act al Security (Invalid Care Allowance) Regulations 1976, Contributions and Benefits (Northern Ireland) Act 1992) Security (Invalid Care Allowance) Regulations (Northern		



ANNEX	3: CASES IN WHICH THE PRO RATA CALCULATION SHALL BE WAIVED OR SHALL NOT APPLY (Articles 49(4) and 49(5))
Part 1: C Article 49	ases in which the pro rata calculation shall be waived pursuant t
UNITED	KINGDOM
Pensions .	cations for retirement pension, state pension pursuant to Part 1 of th Act 2014, widows' and bereavement benefits, with the exception of thos during a tax year beginning on or after 6 April 1975:
(a)	the person concerned had completed periods of insurance, employmer or residence under the legislation of both States; and one (or more) of th tax years was not considered a qualifying year within the meaning of th legislation of the United Kingdom;
(b)	the periods of insurance completed under the legislation in force in th United Kingdom for the periods prior to 5 July 1948 would be taken int account for the purposes of point (b) of Article 49(1) of this Conventie by application of the periods of insurance, employment or residence under the legislation of Switzerland.
and Bene	ations for additional pension pursuant to the Social Security Contribution fits Act 1992, section 44, and the Social Security Contributions ar Northern Ireland) Act 1992, section 44.
SWITZER	RLAND
	s for old-age, survivors' and invalidity pensions under the basic schem Law on old-age and survivors' insurance and Federal Law on invalidi ).
Part 2: C	ases in which Article 49(5) applies
UNITED	KINGDOM
	I retirement benefits paid pursuant to the National Insurance Act 196: 6 and 37, and the National Insurance Act (Northern Ireland) 1966, section

ANNEX 4: SPECIAL PROVISIONS FOR THE APPLICATION OF THE LEGISLATION OF THE STATES (Articles 6(2), 53(1) and 68)						
UNITED	KINGDOM					
	ere, in accordance with United Kingdom legislation, a person may be a retirement pension if:					
(a)	the contributions of a former spouse are taken into account as if they were that person's own contributions; or					
(6)	the relevant contribution conditions are satisfied by that person's spouse or former spouse, then provided, in each case, that the spouse or former spouse is or had been exercising an activity as an employed or self- employed person, and had been subject to the legislation of both States, the provisions of Chapter 5 of Title III of this Convention shall apply in order to determine entitlement under United Kingdom legislation. In that case, references in Chapter 5 of Title III of this Convention to 'periods of insurance' shall be construed as references to periods of insurance completed by:					
	<ul> <li>a spouse or former spouse where a claim is made by:</li> <li>a married woman, or</li> <li>a person whose marriage has terminated otherwise than by the death of the spouse; or</li> </ul>					
	<ul> <li>a former spouse, where a claim is made by:</li> <li>a widower who immediately before pensionable age is not entitled to a widowed parent's allowance, or</li> <li>a widow who immediately before pensionable age is not entitled to a widow who immediately before pensionable age is not entitled to a widow's pension, or who is only entitled to an age-related widow's pension calculated pursuant to point (b) of Article 49(1) of this Convention, and for this purpose 'age-related widow's pension' means a widow's pension payable at a reduced rate in accordance with section 39(4) of the Social Security Contributions and Benefits Act 1992.</li> </ul>					
age or su diseases a staying in	the purposes of applying Article 11 of this Convention in the case of old- irvivors' cash benefits, pensions for accidents at work or occupational and death grants, any beneficiary under United Kingdorn legislation who is the territory of Switzerland shall, during that stay, he considered as if they the territory of Switzerland.					
(3) (a)	For the purpose of calculating an earnings factor in order to determine entitlement to benefits under United Kingdom legislation, for each week of activity as an employed person under the legislation of Switzerland,					





# **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order makes provision for the modification of certain social security legislation, 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 9th September 2021 ("the Convention").

It also varies the Family Allowances, National Insurance and Industrial Injuries (Switzerland) Order 1969 in accordance with Article 77 of the Convention.

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 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.

This 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.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Switzerland) Order 2021.