

---

STATUTORY INSTRUMENTS

---

**1992 No.3209**

**SOCIAL SECURITY**

**The Social Security (Austria) Order 1992**

*Made* - - - - - *17th December 1992*

*Coming into force* - - - - - *31st December 1992*

At the Court at Buckingham Palace, the 17th day of December 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Vienna on 22nd July 1980, a Convention on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Austria (hereinafter referred to as the "Principal Convention")<sup>(1)</sup> was signed on behalf of those Governments and effect was given to the Principal Convention by the Social Security (Austria) Order 1981<sup>(2)</sup> (hereinafter referred to as the "Principal Order"):

And Whereas at London on 9th December 1985 the Principal Convention was amended by a Supplementary Convention<sup>(3)</sup> signed on behalf of those Governments and effect was given to the Supplementary Convention by the Social Security (Austria) Order 1987<sup>(4)</sup>:

And Whereas at London on 13th October 1992 the Second Supplementary Convention<sup>(5)</sup> was signed on behalf of those Governments further amending the Principal Convention (which Second Supplementary Convention is set out in Schedule 1 to this Order):

And Whereas by Article IV of the Second Supplementary Convention it is provided that the said Convention shall enter into force on the last day of the first month following the month in which Notes are exchanged by the Parties through the Diplomatic Channel notifying each other that all matters as are necessary to give effect to the said Convention have been finalised:

And Whereas at London on 27th November 1992 Notes were exchanged on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Austria (which Notes are set out in Schedule 2 to this Order) specifying that the said Convention shall enter into force on 31st December 1992:

And Whereas by section 179 of the Social Security Administration Act 1992<sup>(6)</sup> it is provided that Her Majesty may by Order in Council make provision for modifying or adapting the said Act and

---

(1) Cm 8048.

(2) S.I.1981/605 as amended by S.I. 1988/591.

(3) Cm 9749.

(4) S.I. 1987/1830.

(5) Cm 2051.

(6) 1992 c. 5.

the Social Security Contributions and Benefits Act 1992<sup>(7)</sup> in their application to cases affected by agreements with other Governments providing for reciprocity in matters specified in that section:

Now, therefore, Her Majesty, in pursuance of section 179 of the Social Security Administration Act 1992 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

#### **Citation and commencement**

1. This Order may be cited as the Social Security (Austria) Order 1992 and shall come into force on 31st December 1992.

#### **Modification of the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992 and variation of the Principal Order**

2. The Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992 shall be modified and the Principal Order shall be varied so as to give effect to the amendments made to the Principal Convention by the Second Supplementary Convention set out in Schedule 1 to this Order, so far as the same relate to England, Wales and Scotland.

*N. H. Nicholls*  
Clerk of the Privy Council

---

(7) 1992 c. 4.

## SCHEDULE 1

Article 2

### SECOND SUPPLEMENTARY CONVENTION TO THE CONVENTION ON SOCIAL SECURITY BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF AUSTRIA

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND AND OF HER OTHER  
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH  
(HEREINAFTER REFERRED TO AS “HER BRITANNIC MAJESTY ”)  
AND THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA

Desiring to amend and supplement the Convention of 22 July 1980 on social security as amended by the Supplementary Convention of 9 December 1985,

Have resolved to conclude a Second Supplementary Convention and for that purpose have appointed as their Plenipotentiaries:

Her Britannic Majesty:

For the United Kingdom of Great Britain and Northern Ireland:

The Rt. Hon. Douglas Hurd, Secretary of State for Foreign and Commonwealth Affairs;

The Federal President of the Republic of Austria:

For the Republic of Austria:

His Excellency Dr. Alois Mock, Federal Minister for Foreign Affairs;

The Plenipotentiaries, having communicated to each other their full powers, found in good and due form, have agreed as follows:

## Article I

For the purposes of this Supplementary Convention,

1. “EEA Agreement” means the Agreement on the European Economic Area dated 2 May 1992 and made between the European Community, its Member States and the Member States of the European Free Trade Association;

2. “Convention” means the Convention on Social Security between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria which was signed at Vienna on 22 July 1980 as amended by the Supplementary Convention on Social Security between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria which was signed at London on 9 December 1985;

3. “Regulation EEC 1408/71” means the Regulation (EEC) No 1408/71 of the Council on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and includes amendments and adaptations from time to time applicable thereto;

4. “Implementing Regulation” means the Regulation (EEC) No 574/72 of the Council laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and includes amendments and adaptations from time to time applicable thereto.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## Article II

- (a) (1) (a) Sub-paragraph 5. of paragraph (1) of Article 1 of the Convention shall be deleted and the following substituted:

“5. “competent authority” means, in relation to the territory of the United Kingdom, the Department of Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of Man, the Social Security Committee of the States of Jersey or the States of Guernsey Insurance Authority, as the case may be, and, in relation to Austria, the Federal Ministers responsible for the application of the legislation specified in paragraph (1) of Article 2 of the Convention;”

- (b) Sub-paragraph 8. of paragraph (1) of Article 1 of the Convention shall be deleted and the following substituted:

“8.a “pension”, “allowance” or “benefit” shall be taken to include any increase in its rate and any additional allowance payable with it;”

- (20) After Article 2 of the Convention the following Article 2A shall be inserted:

### “Article 2A

This Convention shall apply to:

- (a) persons who are, or have been, subject to the legislation of one or both of the High Contracting Parties;
- (b) other persons with respect to the rights they derive from the persons specified in sub-paragraph (a).”
- (3) To Article 4 of the Convention the following paragraph (3) shall be added:
- “(3) As regards Austrian legislation, paragraph (1) of this Article shall not apply to the equalisation supplement.”
- (a) (4) (a) In paragraph (1) of Article 16 of the Convention the words “Articles 17 and 18” shall be replaced by the words “Article 17”.
- (b) In paragraph (3) of Article 16 of the Convention the words “Articles 17 and 19” shall be replaced by the words “Article 17”.
- (c) To Article 16 of the Convention the following paragraph (4) shall be added:
- “(4) Where a person is entitled to an old age pension under the legislation of Austria without the application of the provisions of paragraph (1) of this Article, that pension shall be paid and the provisions of paragraph (1) of Article 17 of this Convention shall not be applied under that legislation.”
- (5) Articles 18 and 19 of the Convention shall be deleted.
- (a) (6) (a) Paragraph (7) of Article 20 of the Convention shall be deleted and the following substituted:
- “(7) the helpless person’s allowance shall be calculated in accordance with the provisions of paragraph (1) of Article 17 of this Convention;”
- (b) Paragraph (9) of Article 20 of the Convention shall be deleted and the following substituted:
- “(9) the special payments are due in proportion to the Austrian partial pension.”
- (7) In Article 3 of the Protocol to the Convention concerning benefits in kind the words “Gebietskrankenkasse für Arbeiter und Angestellte (Regional Fund for Sickness Insurance of Wage-

earners and Employees)” shall be replaced by the words “Gebietskrankenkasse (Regional Fund for Sickness Insurance)”.

### Article III

(1) Subject to paragraphs (2) to (4), as from the date of entry into force of this Article and as regards relations between England, Scotland, Wales, Northern Ireland and Austria, the Convention and its accompanying Protocol concerning benefits in kind, as amended by Article II of this Supplementary Convention, shall cease to apply to all persons to whom the provisions of Regulation EEC 1408/71 and the Implementing Regulation are, at that date, or subsequently become, applicable. Any rights in course of acquisition under the Convention immediately before the date of entry into force of the EEA Agreement shall as regards persons to whom the Convention is disappplied by the provisions of this paragraph be determined in accordance with the provisions of those Regulations.

(2) Article 3 of the Convention shall continue to apply as regards persons residing in a third state.

(3) The Protocol referred to in paragraph (1) as amended by Article II of this Supplementary Convention shall, with the exception of Article 2(3) thereof, continue to apply as regards persons who cannot claim treatment under Chapter 1 of Title III of Regulation EEC 1408/71.

(4) In relation to the United Kingdom, the provisions of the Convention and, where appropriate, this Supplementary Convention shall continue to apply to:

- (a) any award of a benefit, pension or allowance made prior to the date upon which the EEA Agreement comes into force;
- (b) any claim to a benefit, pension or allowance made but not determined at the date upon which the EEA Agreement comes into force;
- (c) any claim to a benefit, pension or allowance made after the date upon which the EEA Agreement comes into force but only where that claim relates to entitlement to such benefit, pension or allowance for a period prior to the date upon which the EEA Agreement comes into force.

### Article IV

(1) Unless otherwise provided under paragraph (2), this Supplementary Convention shall enter into force on the last day of the first month following the month in which Notes are exchanged by the Parties through the diplomatic channel notifying each other that all matters as are necessary to give effect to this Supplementary Convention have been finalised.

(2) Paragraphs (4), (5) and (6) of Article II, and Article III of this Supplementary Convention shall enter into force simultaneously with the date on which the EEA Agreement enters into force.

## SCHEDULE 2

[No. 1]

**18 November 1992**

Your Excellency

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

I have the honour to refer to the Second Supplementary Convention to the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Austria, signed at London on 13 October 1992, and, in accordance with Article IV(1) of that Supplementary Convention, to notify you that the Government of the United Kingdom has completed the procedures required by its law for the bringing into force of this Convention.

I should be grateful to know when the Government of the Republic of Austria has similarly completed the constitutional procedures which will allow the Supplementary Convention to enter into force on 31 December 1992.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

M. L. H. HOPE

(for the Secretary of State for Foreign and Commonwealth Affairs)

[No.2]

**27 November 1992**

Dear Sir

I have the honour to refer to your Note of 18 November 1992 informing me that the Government of the United Kingdom has completed the procedures required by its law for the bringing into force of the Second Supplementary Convention to the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria, signed at London on 13 October 1992, and would hereby inform you that the Government of the Republic of Austria has similarly completed its constitutional procedures required to bring the Second Supplementary Convention to the Convention on Social Security between the Republic of Austria and the United Kingdom of Great Britain and Northern Ireland into force on 31 December 1992.

I avail myself of this opportunity to renew to you, Sir, the assurances of my high consideration.

WALTER F. MAGRUTSCH

In Witness Whereof the above-named Plenipotentiaries have signed this Supplementary Convention.

Done in duplicate at London this thirteenth day of October 1992 in the English and German languages, both texts being equally authoritative.

For Her Britannic Majesty:

*DOUGLAS HURD*

For the Federal President of the Republic of Austria:

*A. MOCK*

---

#### **EXPLANATORY NOTE**

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

This Order makes provision for the modification of the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992 so as to give effect to the Supplementary Convention set out in Schedule 1 to the Order.

The Second Supplementary Convention further amends the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Austria signed on 22nd July 1980, as amended by a Supplementary Convention signed on behalf of those Governments on 9th December 1985.

The Second Supplementary Convention provides that as from the date on which the Treaty establishing the European Economic Area enters into force, the provisions of the Convention and its accompanying Protocol concerning benefits in kind shall cease to apply to persons to whom Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 (“the EEC Regulations”) apply; rights in course of acquisition under the Convention immediately before the Treaty enters into force are to be determined in accordance with the provisions of the EEC Regulations. The Convention continues to apply to other persons who are insured under the social security schemes of Great Britain and Northern Ireland and to persons who are insured under the social security schemes of the Isle of Man, the Island of Jersey and the Islands of Guernsey.

The Second Supplementary Convention provides for benefits already awarded and claims in course of determination to be governed by the Convention.