STATUTORY RULES OF NORTHERN IRELAND

# 2015 No. 207

# SOCIAL SECURITY

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

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| *Made - - - -* | *28th March 2015* |
| *Coming into operation -* | *1st April 2015* |

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(**a**) in relation to social security(**b**).

Accordingly the Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

**Citation, commencement and interpretation**

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

(2) For the purposes of these Regulations—

(a) "the Australia Order" means the Social Security (Australia) Order (Northern Ireland) 1992(**c**);

(b) "the Canada Order" means the Social Security (Canada) Order (Northern Ireland) 1995(**d**);

(c) "EEA national" means a national of an EEA state(**e**) or Switzerland;

(d) "the New Zealand Order" means the Social Security (New Zealand) Order (Northern Ireland) 1983(**f**); and

(e) "relevant EU Regulation" means—

(i) Council Regulation (EC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community(**g**), or

(**a**) 1972 c. 68.
(**b**) *See* S.I. 2010/2473
(**c**) S.R. 1992 No. 269; revoked with effect from 1st March 2001 by the Social Security (Australia) Order (Northern Ireland) 2000 (S.R. 2000 No. 407) subject to the savings provisions referred to in Article 2(2) of the latter order and treated as continuing in operation to the extent provided for by section 299 of the Pensions Act 2004 (c. 35)
(**d**) S.R. 1995 No. 405
(**e**) As defined by Schedule 1 to Section 5 of the Interpretation Act 1978 c. 30.
(**f**) S.R. 1983 No. 432
(**g**) OJ L 149, 5.7.71, p2 (OJ/SE) 1st series 1971 vol II p416

(ii) Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems(**a**).

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

**2.** Regulation 3 applies where-

(a) A person is an EEA National;

(b) that person is habitually resident in an EEA state or Switzerland;

(c) that person can demonstrate a genuine and sufficient link to the United Kingdom social security system; and

(d) a relevant EU Regulation applies.

**3.**—(1) The legislation mentioned in Articles 2 and 3 of the Australia Order is modified in relation to that person to give effect in Schedule 1 to that Order as if it read as follows—

(a) in article 3(1), "that part of the territory" were substituted by "the territory comprising the EEA states and Switzerland" the first time it occurs, and by "the relevant part of the territory of the United Kingdom" the second time it occurs;

(b) in article 3(5), "the United Kingdom" were substituted by "the area comprising the EEA States and Switzerland";

(c) in article 5(1), "in that part of the territory" were substituted by "in the territory comprising the EEA states and Switzerland" and "of that part of the territory" were substituted by "of the relevant part of the territory of the United Kingdom"; and

(d) in article 5(4), "the United Kingdom" were substituted by "the area comprising the EEA states and Switzerland".

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

(a) in paragraph (9)(a), "resident in the United Kingdom" were substituted in both places it appears by "resident in the territory comprising the EEA states and Switzerland";

(b) in paragraph (11), "resident in the United Kingdom" were substituted by "resident in the territory comprising the EEA states and Switzerland".

(3) The legislation mentioned in Article 2 of the New Zealand Order is modified in relation to that person to give effect to the convention set out in the schedule to the Order as if it read as follows—

(a) in article 8(1), "resident in the United Kingdom" and "resident there" were substituted by "resident in the territory comprising the EEA states and Switzerland";

(b) in article 9(1), "the United Kingdom" were substituted by "the territory comprising the EEA states and Switzerland";

(c) in article 9(2), "or resident in, the United Kingdom" were substituted by "or resident in, the territory comprising the EEA States and Switzerland";

(d) in article 9(3), "or resident in, the United Kingdom" were substituted by "or resident in, the territory comprising the EEA states and Switzerland";

(e) in article 9(6) for "leaves the United Kingdom" to the end there were substituted "leaves the area comprised of the EEA states and Switzerland, unless that person is usually resident in that area and his or her absence is only temporary.";

(f) in article 11(1), "the United Kingdom" were substituted by "the territory comprising the EEA states and Switzerland"

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(**a**) OJ No L 166.30.4.04, pl.

(g) in article 11(2), "or resident in, the United Kingdom" were substituted by "or resident in, the territory comprising the EEA states or Switzerland" and "her arrival in the United Kingdom" were substituted by "her arrival in the territory comprising the EEA states and Switzerland";

(h) in article 11(3), "or resident in, the United Kingdom" were substituted by "or resident in, the territory comprising the EEA states or Switzerland"; and

(i) in article 11(4) for "leaves the United Kingdom" to the end there were substituted "leaves the area comprised of the EEA states and Switzerland, unless that person is usually resident in that area and that person's absence is only temporary.".

Signed by the authority of the Secretary of State for Work and Pensions

(L.S.)

*Esther McVey*
Minister of State
Department for Work and Pensions

28th March 2015

## EXPLANATORY NOTE

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

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

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

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

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

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