

1992 No. 560**SOCIAL SECURITY****The Social Security (Austria) Order
(Northern Ireland) 1992**

Made 18th December 1992

Coming into operation 31st December 1992

In exercise of the powers conferred on me by section 155 of the Social Security Administration (Northern Ireland) Act 1992(a) and of all other powers enabling me in that behalf, I hereby make the following order:

Citation and commencement

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

Modification of the Contributions and Benefits Act and the Administration Act and variation of the Austria Order

2. The Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and the Social Security Administration (Northern Ireland) Act 1992 shall be modified and the Social Security (Austria) Order (Northern Ireland) 1981(c) shall be varied so as to give effect to the amendments made to the Convention on Social Security set out in the Schedule to that order by the Second Supplementary Convention set out in Schedule 1 to this order (which Second Supplementary Convention shall enter into force in consequence of the Notes set out in Schedule 2 to this order), so far as the same relate to Northern Ireland.

Dated this 18th day of December 1992.

P. B. B. Mayhew
One of Her Majesty's Principal
Secretaries of State

(a) 1992 c. 8

(b) 1992 c. 7

(c) S.R. 1981 No. 144, as amended by the Supplementary Convention of 9th December 1985 which was given effect by S.R. 1987 No. 402 and as modified by S.R. 1988 No. 120

**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.

ARTICLE II

- (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;”

- (2) 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.”
- (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.
- (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 disapplied 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.

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

No. 560

Social Security

3311

For the Federal President
of the Republic of Austria:

A. Mock

[No. 1]

18 November 1992

Your Excellency

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

EXPLANATORY NOTE

(This note is not part of the Order.)

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

The Second Supplementary Convention amends 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 on 22nd July 1980 as amended by the Supplementary Convention signed 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 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.