

07-24: Social Security Co-ordination(Legacy Benefits) between the UK and Ireland, Gibraltar, Switzerland, Iceland, Liechtenstein and Norway following the UK's withdrawal from the European Union (EU).

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Introduction

1. The purpose of this memo is to give guidance on

- 1.** Social Security (Ireland) Order 2019¹ [SS (Ireland) Order 2019]
- 2.** Social Security (Gibraltar) Order 2024² [SS (Gibraltar) Order 2024]
- 3.** Social Security (Switzerland) Order 2021³ [SS (Switzerland) Order 2021]

4. Social Security (Iceland) (Liechtenstein) (Norway) Order 2023⁴ [SS (Iceland) (Liechtenstein) (Norway) Order 2023] and

5. Trade & Co-operation Agreement, Heading Four, and the Protocol on Social Security⁵ [TCA].

1 [SS \(Ireland\) Order 2019](#); 2 [SS \(Gibraltar\) Order 2024](#) 3 [SS \(Switzerland\) Order 2021](#);

4 [SS \(Iceland\) \(Liechtenstein\) \(Norway\) Order 2023](#); 5 [Treaty Series 8 \(2021\)](#)([link is external](#))

2. The order made on

1. 13.3.19¹ and came into effect on 31.12. 20

2. 21.1.24² and came fully into effect on 1.6.24

3. 29.9.21³ and was provisionally applied from 01.11.21. It came fully in effect from 1.10.23

4. 11.10.23⁴ and came into effect on 1.1.24.

1 [SS \(Ireland\) Order 2019](#); 2 [SS \(Gibraltar\) Order 2024](#)

3 [SS \(Switzerland\) Order 2021](#); 4 [SS \(Iceland\) \(Liechtenstein\) \(Norway\) Order 2023](#)

3. The TCA¹ provisionally applied from 1.1.21 and came fully into effect on 1.5.21.

1 [TCA](#)

Background

4. From 1.1.21, individuals and their family members moving between the UK, Ireland, Gibraltar, Switzerland, Iceland, Liechtenstein and Norway, who are not covered by the

1. EU-UK-WA **or**

2. UK-EEA EFTA Separation Agreement **or**

3. UK-Swiss Citizens' Rights Agreement

can no longer rely on protections under EU law for social security co-ordination.

5. The UK has made reciprocal arrangements with

1. Ireland¹

2. Gibraltar²

3. Switzerland³

4. Iceland, Liechtenstein and Norway⁴

which gives effect to social security co-ordination between the UK and those countries from the dates as shown at paragraph 2 of this memo.

*1 [SS \(Ireland\) Order 2019](#); 2 [SS \(Gibraltar\) Order 2024](#)
3 [SS \(Switzerland\) Order 2021](#); 4 [SS \(Iceland\) \(Liechtenstein\) \(Norway\) Order 2023](#)*

6. The Trade & Co-operation Agreement¹ [TCA] social security protocol provides for social security co-ordination between EU Member States and the UK from the end of the transition period on 31.12.20 and applied from 1.1.21 for those not in scope of the EU-UK-WA.

[1TCA](#)

Ireland

7. The Schedule to the 2019 Order¹ broadly replicates existing legislation² ensuring that there is no change in the social security rights of British nationals, Irish nationals and their family members moving between the UK and Ireland as a result of the UK's withdrawal from the EU.

1 [SS \(Ireland\) Order 2019](#); 2 [Regulation \(EC\) No 883/2004](#)

8. When making a claim for long-term care benefits from the UK, persons moving from

1. the UK to Ireland are able to benefit from the broader legal test of whether they can show a 'genuine and sufficient link' to the UK **or**
2. Ireland to the UK, the narrower 'past-presence' legal test is applied (see Note).

Note: Periods of insurance in Ireland will be applied to said persons' when the PPT is applied to them. In effect, if a claimant has worked for 5 out of the last 6 years in Ireland, then the UK will apply those periods to meet the PPT. For full guidance on the PPT see [DMG Chapter 07](#).

9. When a person in receipt of a pension from both the UK and Ireland makes a claim for

1. sickness benefit **or**
2. maternity and paternity benefits **or**

3. long term care benefits

the competent state for the payment of the benefit is the state the person has been subject to the legislation the longest.

10. The social security rights of UK and Irish nationals provided for under the Common Travel Area agreement are unchanged by the 2019 Order¹.

1 [SS \(Ireland\) Order 2019](#)

Gibraltar

11. For persons not in scope of the

1. EU-UK-WA **or**
2. UK-EEA EFTA Separation Agreement **or**
3. UK-Swiss Citizens' Rights Agreement **or**
4. UK-Swiss Social Security Convention

the Schedule to the 2024 Order¹ replicates existing legislation² ensuring that there is no change to the social security rights of individuals and their family members moving between the UK and Gibraltar as a result of the UK's withdrawal from the EU.

1 [SS \(Gibraltar\) Order 2024](#); 2 [Regulation \(EC\) No 883/2004](#);

12. The 2024 Order¹ came into effect on 1.6.24. To ensure continuity, claims and awards made

1. for periods on or before 31.12.20 will be determined under the earlier agreement², which provided that previous legislation³ applied **or**
2. from 1.1.21 will be determined under the 2024 Order¹. However, Article 65 (3) does not permit claims to be backdated between 1.6.24 to 1.1.21 (i.e. no award can be backdated between those two dates).

1 [SS \(Gibraltar\) Order 2024](#); 2 [Exchange of letters \(Gibraltar\) Order 1974](#);

3 [Regulation \(EC\) No 883/2004](#)

Switzerland

13. The Schedule to the 2021 Order¹ has fewer or modified social security rights and applies to all

individuals and their family members moving between the UK and Switzerland with the following exceptions,

1. for Benefits in Kind, only Swiss, UK and EU nationals (plus stateless persons and refugees) are in scope for UK healthcare where the UK is competent
2. only Swiss, UK and EU nationals (plus stateless persons and refugees) are in scope for Swiss cash benefits and healthcare where Switzerland is competent.

Note: See paragraph 15 for a further explanation of the changes to social security rights under the 2021 Order.

[1SS \(Switzerland\) Order 2021](#)

Iceland, Norway and Liechtenstein

14. The Schedule to the 2023¹ Order has fewer or modified social security rights for individuals and their family members moving between the UK, Iceland, Norway, and Liechtenstein. See paragraph 15 for a further explanation of those changes.

[1 SS \(Iceland\) \(Liechtenstein\) \(Norway\) Order 2023](#)

Changes

15. For Switzerland, Iceland, Liechtenstein and Norway, social security co-ordination under the TCA¹ and the 2021 Order² and 2023 Order³ differ from the rights that exist for persons covered by the EU-UK-WA.

[1 TCA; 2 SS \(Switzerland\) Order 2021; 3 SS \(Iceland\) \(Liechtenstein\) \(Norway\) Order 2023](#)

16. The rules for aggregation and exportability continue to apply to State Retirement Pension.

17. The rules for the exporting of

1. WMA
2. WPA and
3. WP

continue to apply.

18. New claims may be made for WP for deaths occurring prior to 6.4.17.

19. Exporting is not allowable for an award of

1. AA

2. CA

3. DLA (Care)

4. WFP (see Note 1)

unless the claimant is within scope of the EU-UK-WA.

Note 1: For WFP the claimant must be within the full scope of the EU-UK-WA.

Note 2: For guidance on the differences between how social security benefits are co-ordinated under the TCA and the EU-UK-WA see [DMG memo 11/22](#) and [Chapter 7, Part 2, Appendix 3 of the DMG](#).

Interim provisions

20. From 1.1.21 for those who were not in scope of the Separation Agreements, only pensions were coordinated. This means that for claimants between 1.1.21 and 31.12.23 there were less rights but this was temporary pending the new agreement and only applied to those who were not covered by the Separation Agreements.

Note: The Separation Agreements are shown at paragraph 5 and are listed 1-4.

Norway

21. From the end of the transition period on 31.12.20 to the entry into force of the 2023 Order¹ on 1.1.24, the UK and Norway applied the 1991 Agreement between them as amended by 2020 Exchange of Letters. These were implemented by the 2020 Order².

1 [SS \(Iceland\) \(Liechtenstein\) \(Norway\) Order 2023](#); 2 [SS \(Norway\) Order 2020 No. 1597](#)

Switzerland

22. After the end of the transition period until the entry into force of the Agreement on 1.11.21¹, the UK and Switzerland used the historic 1968 Convention between the two countries to coordinate social security.

1 [SS \(Switzerland\) Order 2021](#)

Annotations

Please annotate the following paragraphs with Memo 07-24 [071740](#), [071753](#), [071754](#), [071761](#), [071779](#), [071785](#), [071790](#), [071795](#), [071801](#), [071805](#), [071912](#).

Contacts

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in – Memo [7/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: September 2024

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