STATUTORY RULES OF NORTHERN IRELAND

2019 No. 77

SOCIAL SECURITY

The Social Security (Ireland) Order (Northern Ireland) 2019

Made - - - - 29th March 2019

Coming into operation in accordance with article 1

The Secretary of State and the Commissioners for Her Majesty's Revenue and Customs make the following Order in exercise of the powers conferred by section 155(1) and (2) of the Social Security Administration (Northern Ireland) Act 1992(**1**).

Citation and commencement

1. This Order may be cited as the Social Security (Ireland) Order (Northern Ireland) 2019 and shall come into operation on the later of the following—

(a) immediately after the coming into force of the Social Security (Amendment) (Northern Ireland) (EU Exit) Regulations 2019(**2**);

(b) the date of the later of the notifications referred to in Article 65 of the Convention set out in the Schedule to this Order(**3**).

Modification of legislation

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) Paragraph (1) applies to—

(a) the Social Security Administration (Northern Ireland) Act 1992;

(b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**4**);

(**1**) 1992 c. 8; section 155 is to be amended by S.I. 2019/129 with effect from exit day and there are other amendments that are not relevant to this Order. In relation to Child Benefit and Guardian's Allowance in Northern Ireland, the power under section 155 was transferred to the Board by section 50(1)(d) of the Tax Credits Act 2002 (c. 21). The Board is defined in section 67 of that Act as the Commissioners of Inland Revenue however expressed. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Commissioners for Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, insofar as is appropriate, in consequence of section 5, a reference to the Commissioners of Inland Revenue shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs

(**2**) S.I. 2019/129

(**3**) The date on which the Convention enters in force for the United Kingdom will be published on the relevant page on UK Treaties Online which can be found at this link: https://www.gov.uk/uk-treaties

(**4**) 1992 c. 7

(c) the Jobseekers (Northern Ireland) Order 1995(**5**);

(d) Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998(**6**);

(e) the State Pension Credit Act (Northern Ireland) 2002(**7**);

(f) Part 1 of the Welfare Reform Act (Northern Ireland) 2007(**8**);

(g) Parts 2 and 5 of the Welfare Reform (Northern Ireland) Order 2015(**9**);

(h) Parts 1 and 5 of the Pensions Act (Northern Ireland) 2015(**10**);

(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, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018(**11**);

(j) 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, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018; and

(k) regulations within the scope of section 155(5) of the Social Security Administration (Northern Ireland) Act 1992,

so far as those provisions relate to Northern Ireland.

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

Alok Sharma
Minister of State for Employment
Department for Work and Pensions

29th March 2019

Signed by the authority of two of the Commissioners for Her Majesty's Revenue and Customs

Ruth Stanier
Jim Harra
Two of the Commissioners for Her Majesty's
Revenue and Customs

28th March 2019

(**5**) S.I. 1995/2705 (N.I. 15)
(**6**) S.I. 1998/1506 (N.I. 10)
(**7**) 2002 c. 14 (N.I.)
(**8**) 2007 c. 2 (N.I.)
(**9**) S.I. 2015/2006 (N.I. 1)
(**10**) 2015 c. 5 (N.I.)
(**11**) 2018 c. 16

SCHEDULE Articles 1 and 2

CONVENTION ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF IRELAND

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland;

Recognising that protection of social security rights enjoyed by British and Irish citizens moving between the two countries has been established through a series of reciprocal arrangements made since 1924;

Having then strengthened such reciprocity in the field of social security by means of the Agreements which were signed on their behalf at London on 29 March 1960 (which Agreement did not include Northern Ireland), at Dublin on 28 February 1966, at Dublin on 3 October 1968 and at London on 14 September 1971 and also including the arrangements made on 22 July 1964 between the Ministry of Labour and National Insurance in relation to Northern Ireland and the Minister for Social Welfare in relation to Ireland;

Having subsequently consolidated such Agreements and their extension and modification in a Convention which was signed on their behalf at Dublin on 14 December 2004;

Desiring to ensure that the reciprocal rights enjoyed by British and Irish citizens under the Common Travel Area arrangements are protected following the withdrawal of the United Kingdom from the European Union;

Having resolved to conclude a further social security Convention for that purpose;

Have agreed as follows:

PART I
GENERAL PROVISIONS

ARTICLE 1
Definitions

(1) For the purpose of this Convention the following definitions apply, except where the context otherwise requires:

"activity as an employed person" means any activity or equivalent situation treated as such for the purposes of the legislation of the Party in which such activity or equivalent situation exists;

"activity as a self-employed person" means any activity or equivalent situation treated as such for the purposes of the legislation of the Party in which such activity or equivalent situation exists;

"additional pension" means any additional pension payable under the legislation of the United Kingdom based on the payment of contributions above the level required for entitlement to basic pension;

"benefit" means, as appropriate, any benefit, pension, allowance, payment or grant to which this Convention applies (in accordance with Article 3) and includes any increases of, or any additional amount payable with, such benefit, pension, allowance, payment or grant respectively;

"civil servant" means a person considered to be such or treated as such by the Party to which the administration employing them is subject;

"competence", in relation to a Party, means responsibility for payment of a particular benefit under the legislation it applies to a person who:

(i) is insured in that Party in relation to a benefit of that type, at the time of their claim for it; or

(ii) would be entitled to such benefit if they (or a member of their family or survivor, where relevant) resided in that Party,

and the word "competent" shall be construed accordingly;

"contribution period" means:

(i) in the case of the United Kingdom, a period in respect of which contributions relevant to entitlement to the benefit concerned are payable, have been paid or treated as paid under the relevant legislation; or,

(ii) in the case of Ireland, a period in respect of which a person has qualifying contributions relevant to entitlement to the benefit concerned under the relevant legislation;

"credited period" means a period (other than a period of employment or a period of self-employment) for which contributions relevant to entitlement to the benefit in question have been credited under the legislation concerned;

"dependant" means an individual who would be treated as such for the purpose of any claim for an increase of benefit in respect of a dependant under the legislation concerned;

"EEA Agreement" means the Agreement establishing the European Economic Area dated 2 May 1992 made between the European Community, its Member States and the Member States of the European Free Trade Association and any amendments or modifications made to it;

"employed person" means:

(i) a person who, under the legislation of the United Kingdom, comes within the definition of an employed earner or an employed person, or is treated as such, and
(ii) in relation to Ireland, an employed contributor within the meaning given by section 12 of the Social Welfare (Consolidation) Act 2005 (as amended);

"employment" means employment as an employed person and the words "employ", "employed" or "employer" shall be construed accordingly;

"EU Social Security Coordination Regulation", for the purposes of Article 19, means either of:
(i) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (as amended); or
(ii) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (as amended);

"frontier worker" means any person pursuing an activity as an employed or self-employed person in one Party and who resides in the other Party to which they return as a rule daily or at least once a week;

"income tax year" means:
(i) in relation to the United Kingdom, the twelve months beginning on 6 April in any year and ending on 5 April in the following year; and
(ii) in relation to Ireland:
  (a) in respect of a period prior to 6 April 2001, the twelve months beginning on 6 April in one year and ending on 5 April in the following year, and
  (b) the period beginning on 6 April 2001 and ending on 31 December 2001, and
  (c) thereafter, a calendar year;

"insurance period" means a contribution period or a credited period;

"insured" means, in relation to a person,
(i) under the legislation of United Kingdom, that they have the right to a type of benefit set out in Article 3(1), taking into account the provisions of this Convention;
(ii) under the legislation of Ireland, a person insured under Part 2 of the Social Welfare (Consolidation) Act 2005 (as amended);

"legislation" means, in relation to a Party, such of the legislation specified in Article 3 as applies in that Party, or in any part of that Party;

"member of the family", in relation to a person, means:
(i) any individual defined or recognised as a member of the family or designated as a member of the household of that person by the legislation of the Party under which the benefit concerned is provided; or