

Agreements with other countries

Introduction

070310 The United Kingdom has reciprocal agreements with both European Economic Area countries and other countries. Lists of the countries with which the United Kingdom has agreements are at

- 070330 for European Economic Area countries **and**
- 070333 for non-European Economic Area countries.

Those lists also set out which benefits are covered by the agreements.

070311 In general a person covered by European Community provisions cannot rely on a reciprocal agreement for entitlement to benefit (070320).

070312 Detailed guidance on the effects of those agreements is set out in the section of the Chapter dealing with each benefit.

General principles

Adjudication under reciprocal agreements

070313 The provisions of agreements apply directly and are part of United Kingdom law. The decision maker may amend United Kingdom law as far as is necessary to give effect to the provisions of an agreement¹.

¹ *SS A Act 92, sec 179(2)*

Example 1

A person entitled to United Kingdom Retirement Pension is absent from Great Britain and residing in Barbados. Under United Kingdom law the rate of Retirement Pension would be frozen at the rate being paid when the person was last resident in the United Kingdom. However, the restriction of the rate of benefit is overridden by the provisions of the United Kingdom-Barbados agreement.

Example 2

A person entitled to long term Incapacity Benefit is absent from Great Britain in Jamaica. The absence is not temporary and under United Kingdom law payment of long term Incapacity Benefit would be disqualified. However, under the provisions of the United Kingdom-Jamaica agreement payment of long term Incapacity Benefit may continue.

070314 A claim may be made in either the United Kingdom or the other country with which the United Kingdom has an agreement. The date of claim is the date that the claim was received in the appropriate institution of the country to which it was sent by the claimant. If necessary the claim will be sent to the authorities of the other country.

070315-070319

Whether European Community provisions or reciprocal agreements apply

When European Community provisions apply

070320 European Community provisions replace agreements between European Economic Area countries¹ (070321)

- for any person within their personal scope² **and**
- where the right to benefit was acquired on or after European Community provisions applied³.

This means that a person within the scope of European Community provisions cannot generally rely on a reciprocal agreement for benefit entitlement.

1 Reg (EEC) 1408/71, Art 6; 2 Art 2; 3 Case 82/72, Walder; Case 475/93, Thévenon

Example

A French national worked in France from 1964 to 1977 and in Germany from 1977 to 1992. His claim for invalidity pension made in 1992 was decided only under European Community provisions without using the Franco-German Social Security agreement. This is because the claimant did not move from France to Germany and pay German insurance contributions until after European Community provisions applied. When European Community provisions took effect the claimant could no longer rely on the Franco-German agreement.

070321 The only exceptions to the general rule in 070320 are set out in 070322 - 070349.

When reciprocal agreements continue to apply

070322 Agreements between European Economic Area countries continue to apply if the person is not within the personal scope (070050) of European Community provisions¹ and comes within the scope of the individual agreement.

1 Reg (EEC) 1408/71, Art 2; Case 9/80 Galinsky; R(P) 1/81

Right acquired under a reciprocal agreement

070323 Agreements between European Economic Area countries can continue to apply if the provisions of an agreement help a claimant more than European Community provisions and the right to use the reciprocal agreement was acquired before

- European Community provisions applied to the United Kingdom on 1.4.73 **or**
- the other country joined the European Community¹.

1 Case 227/89, Rönfeldt; Case 475/93, Thévenon

Example

A German national worked and paid insurance in Germany from 1941 to 1957 and was insured in Denmark from 1957 to 1971. From 1971 he again worked in Germany. The claimant was helped by the Social Security agreement between Germany and Denmark because at the time he returned to Germany Denmark was not a member of the European Community (Denmark joined the European Community on 1.4.73).

Agreement with France

070324 United Kingdom teachers in France under the cultural convention can claim

- long term Incapacity Benefit **or**
- United Kingdom Industrial Injuries benefits

for injuries which occur during their work in France¹.

1 Reg (EEC) 1408/71, Annex III A, para 45

Faroës and Greenland

070325 The agreement with Denmark¹ continues to apply to both the Faroës and Greenland. Greenland left the European Community on 1.2.85 (070041).

1 FA, NI & II (Denmark) Order 60

Countries joining the European Union or European Economic Area

070326 The provisions of reciprocal agreements can continue to apply when a country joins either the

- European Union **or**
- the European Economic Area.

070327-070329

Reciprocal agreements

Agreements with European Economic Area countries

070330 The following table shows the benefits which are covered in agreements with European Economic Area countries.

| | RP | WB | GA | IBST | IBLT | JSA | MB | Dis B | IDB | CHB | AA |
|--------------------|----|----|----|------|------|-----|----|-------|-----|-----|-----|
| Austria | X | X | X | X | X | X | X | X | X | X | - |
| Belgium | X | X | X | X | X | X | X | X | X | X | - |
| Denmark | | X | X | X | X | X | X | X | X | X | X - |
| Finland | X | X | - | X | X | X | X | X | X | X | - |
| France | X | X | - | X | X | X | X | X | X | X | - |
| Germany | | X | X | X | X | X | X | X | X | X | X - |
| Iceland | X | X | X | X | X | X | - | X | X | - | - |
| Ireland | X | X | X | X | X | X | X | X | X | - | - |
| Italy | X | X | X | X | X | X | X | X | X | - | - |
| Luxembourg | X | X | X | X | X | - | X | X | X | - | - |
| Netherlands | X | X | X | X | X | X | X | X | X | - | - |
| Norway | X | X | X | X | X | X | X | X | X | X | X |
| Portugal | X | X | X | X | X | X | X | X | X | X | - |
| Spain | X | X | X | X | X | X | X | X | X | X | - |
| Sweden | X | X | X | X | X | X | X | X | X | X | - |

070331 There is no agreement with Greece or Liechtenstein. The agreement with Gibraltar¹ provides that, except for Child Benefit, the United Kingdom and Gibraltar are treated as separate European Economic Area countries.

1 FA, NI & II (Gibraltar) Order 74, Sch, para 2

070332 Although Northern Ireland is part of the United Kingdom, there is an agreement between Great Britain and Northern Ireland. This is because benefits in Northern Ireland and Great Britain are separate¹ and administered under different Social Security legislation.

1 R(S) 5/85

Agreements with other countries

070333 The following table shows the benefits which are covered in the agreements with countries which are not part of the European Economic Area.

| | RP | WB | GA | IBST | IBLT | JSA | MB | Dis B | IDB | CHB | AA | DLA | ICA |
|--------------------|----|----|----|------|------|-----|----|-------|-----|-----|----|-----|-----|
| Australia | X | X | X | X | X | X | - | - | - | X | - | - | - |
| Barbados | X | X | X | X | X | - | X | X | X | X | - | - | - |
| Bermuda | X | X | - | - | - | - | - | X | X | - | - | - | - |
| Canada | X | - | - | - | - | X | - | - | - | X | - | - | - |
| Cyprus | X | X | X | X | X | X | X | X | X | - | - | - | - |
| Guernsey | X | X | X | X | X | X | X | X | X | X | X | X | - |
| Isle of Man | X | X | X | X | X | X | X | X | X | X | X | X | X |
| Israel | X | X | X | X | X | - | X | X | X | X | - | - | - |
| Jamaica | X | X | X | - | X | - | - | X | X | - | - | - | - |
| Jersey | X | X | X | X | X | - | X | X | X | X | X | X | - |
| Malta | X | X | X | X | X | X | - | X | X | - | - | - | - |
| Mauritius | X | X | X | - | - | - | - | X | X | X | - | - | - |
| New Zealand | X | X | X | X | - | X | - | - | - | X | - | - | - |
| Philippines | X | X | - | - | - | - | - | X | X | - | - | - | - |
| Switzerland | X | X | X | X | X | - | - | X | X | X | - | - | - |
| Turkey | X | X | X | X | X | - | X | X | X | - | - | - | - |
| USA | X | X | X | X | X | - | - | - | - | - | - | - | - |
| Yugoslavia | X | X | - | X | X | X | X | X | X | X | - | - | - |

070334 Following the break-up of Yugoslavia the reciprocal agreement between the United Kingdom and Yugoslavia should be treated as separate agreements between the United Kingdom and

- the residue of the former republic (Serbia and Montenegro)
- Bosnia-Herzegovina
- Croatia
- the former Yugoslav republic of Macedonia **and**
- Slovenia.

070335 The European Community has Association Agreements with

- the Czech Republic
- Hungary
- Poland
- Slovakia
- Bulgaria
- Romania
- Turkey.

070336 The European Community also has Cooperation Agreements with

- Algeria
- Morocco
- Slovenia
- Tunisia.

Benefits not covered

070337 Disability Working Allowance, Severe Disablement Allowance, Family Credit, Social Fund payments, income based Jobseeker's Allowance and Income Support are not covered by any of the agreements.

070338 Jobseeker's Allowance¹ can be paid whilst a person is absent from Great Britain in either Northern Ireland or the Isle of Man. In the other agreements the Jobseeker's Allowance provisions only concern the satisfaction of the contribution conditions.

1 Social Security (RA) Order

070339-070349