

# GMS Flash Alert

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## Switzerland - Brexit: Social Security Coordination with U.K. Starting in 2021

With the transitional rules for Brexit having ended on 31 December 2020, the Free Movement of Persons Agreement (FMOPA) and Ord. 883/2004 and Ord. 987/2009 on social security no longer apply between Switzerland and the United Kingdom. Starting 1 January 2021, social security coordination involving Switzerland and the U.K. is covered by a new regime.

In this article we provide guidance on the international social security framework during the period between 1 January 2021 and ratification of a yet-to-be-negotiated new bilateral social security agreement between Switzerland and the United Kingdom.

### WHY THIS MATTERS

With the U.K. no longer a European Union (EU) member state and Switzerland not an EU member state, the current international social security rules between Switzerland and the U.K. ending on 31 December 2020 and the social security rules for cross-border workers between the two countries are different.

Pressing questions such as the coordination of social security contributions and benefits as well as rules to avoid double social security contributions need to be addressed. For companies it is vitally important to know what steps need to be taken to remain compliant and retain social security protections for their employees.

### Context

In 2016, the United Kingdom voted to leave the European Union (EU). Among other implications, the consequences for social security coordination rules have to be taken into consideration when working in Switzerland and the United Kingdom. Previously, the social security coordination rules between Switzerland and the U.K. were governed by the Free Movement of Persons Agreement (FMOPA) Annex II (social security coordination) with the EU. (For related coverage, see [GMS Flash Alert 2020-494](#), 14 December 2020.)

## Brexit Transition Period (1 February 2020 – 31 December 2020) and Future Regulations

Upon the withdrawal of the U.K. from the EU in January 2020, the U.K. entered a transition period, which ended on 31 December 2020. During this period, EU social security rules Ord. 883/2004 and Ord. 987/2009 to coordinate the social security systems in relation to EU countries and Switzerland remained in place. On 31 December 2020, this transitional period ended. Going forward the EU regulations will no longer apply between Switzerland and the United Kingdom.

It is currently planned that Switzerland and the U.K. will ratify a new social security agreement in the future.<sup>1</sup> However, the details of a new social security agreement between Switzerland and the U.K. are not yet determined. It is therefore necessary to review all cross-border cases under the existing 1968 Convention on Social Security between Switzerland and the United Kingdom of Great Britain and Northern Ireland (“bilateral Swiss/U.K. social security agreement”). (For related coverage, see *GMS Flash Alert 2019-035*, 26 February 2019.)

## Social Security Rules between the U.K. and Switzerland Starting 1 January 2021: What Will Be Different?

The main change is that EU regulations Ord. 883/2004 and Ord. 987/2009 will no longer apply. Instead, starting 1 January 2021, the bilateral Swiss/U.K. social security agreement<sup>2</sup> is applicable. The agreement between Switzerland and U.K. has been in force since 1968 and remains in force after 31 December 2020. Under the bilateral Swiss/U.K. social security agreement, the following applies:

- Posted workers between Switzerland and the U.K. can remain in their home social security system. Irrespective of nationality, it is possible to apply for a Certificate of Coverage to remain in the home social security system for a period of 24 months. An extension up to 60 months is possible.
- There are no multi-state rules. For multi-state workers, the work-place principle applies, creating a split between social security contributions in the respective country based on work-days.
- Exceptions can be applied for under Art. 7 of the bilateral Swiss/U.K. social security agreement.
- Certificates of Coverage for posted third-country nationals continue to fall under the bilateral agreement.

## Do EU Coordination Rules Ord. 883/2004 and Ord. 987/2009 Still Apply after 31 December 2020?

To safeguard rights granted under Ord. 883/2004, Switzerland has concluded an agreement on citizens’ rights with the United Kingdom.<sup>3</sup> (For related coverage, see *GMS Flash Alert 2020-494*, 14 December 2020.) This agreement is applicable as per 1 January 2021 and maintains the rights established for Swiss and U.K. nationals under Ord. 883/2004 before 1 January 2021. On 15 December 2020, the Swiss-EU Joint Committee on Free Movement of Persons extended this protection of rights to EU nationals and cross-border situations involving the European Union.<sup>4</sup>

The EU regulations Ord. 883/2004 and Ord. 987/2009 will therefore still apply in the following cases:

- **For A1 certificates approved before 31 December 2020.** A1 certificates approved before 31 December 2020, for posted workers and multi-state workers remain valid for the duration of the cross-border situation or until the expiry date indicated on the certificate. New applications will need to be made under the totalisation agreement.

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## KPMG NOTE

The withdrawal of the U.K. from the EU has required time and negotiation. Switzerland is currently in negotiations with the U.K. to agree on a new social security agreement. The KPMG International member firm will endeavor to provide news on this new agreement to *GMS Flash Alert* readers as we receive it.

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## FOOTNOTES:

- 1 See "United Kingdom's withdrawal from the EU (Brexit)" from Switzerland's Federal Social Insurance Office (*Bundesamt für Sozialversicherungen BSV*) at: <https://www.bsv.admin.ch/bsv/en/home/social-insurance/int/brexit.html> .
- 2 See (in German) "Abkommen zwischen der Schweiz und dem Vereinigten Königreich von Grossbritannien und Nordirland über Soziale Sicherheit" at: <https://www.admin.ch/opc/de/classified-compilation/19680033/index.html> .
- 3 See "Swiss Citizens' Rights Agreement" published by the U.K. government at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/854220/WAB\\_Fact\\_Sheet\\_-\\_SWISS.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/854220/WAB_Fact_Sheet_-_SWISS.pdf) .
- 4 See "United Kingdom's Withdrawal from the EU (Brexit)" published on the website of the Swiss Federal Social Insurance Office at: <https://www.bsv.admin.ch/bsv/en/home/social-insurance/int/brexit.html> .

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