

1988 No. 119

SOCIAL SECURITY

The Social Security (Sweden) Order (Northern Ireland) 1988

Made 28th March 1988

Coming into operation 1st May 1988

In exercise of the powers conferred on me by section 134 of the Social Security (Northern Ireland) Act 1975(a) and Article 17 of the Child Benefit (Northern Ireland) Order 1975(b) 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 (Sweden) Order (Northern Ireland) 1988 and shall come into operation on 1st May 1988.

Modification of the Social Security (Northern Ireland) Act 1975

2. The Social Security (Northern Ireland) Act 1975 shall be modified to such extent as may be required to give effect to the provisions contained in the Convention on Social Security set out in Schedule 1 to this order, so far as the same relate to Northern Ireland.

Modification of the Child Benefit (Northern Ireland) Order 1975

3. Part II of the Child Benefit (Northern Ireland) Order 1975 (child benefit) and any regulations made under it shall be modified to such extent as may be required to give effect to the provisions contained in the Convention on Social Security set out in Schedule 1 to this order, so far as the same relate to Northern Ireland.

Revocation and variation of orders

4.—(1) The National Insurance and Industrial Injuries (Reciprocal Agreement with Sweden) Order (Northern Ireland) 1957(c) is hereby revoked.

(2) In Part I of Schedule 1 to the Social Security (Reciprocal Agreements) (Northern Ireland) Order 1976(d), the entry relating to the said Order of 1957 shall be omitted.

(a) 1975 c. 15; section 134 was amended by section 20(3) of, and extended by section 20(4) of, the Social Security (Miscellaneous Provisions) Act 1977 (1977 c. 5), and subsection (1A) of section 134 was inserted by Article 7(1) of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25))

(b) S.I. 1975/1504 (N.I. 16); Article 17 was amended by Article 16 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), and paragraph (1A) of Article 17 was inserted by Article 7(2) of the Social Security (Northern Ireland) Order 1981

(c) S.R. & O. (N.I.) 1957 No. 98 (p. 755)

(d) S.I. 1976/1044, to which there are amendments not relevant to the subject matter of this order

(3) In the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1979(a), the entry relating to the said Order of 1957 shall be omitted.

(4) Paragraph 1 of Schedule 1 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1982(b) is hereby revoked and in Schedule 2 to that order, the entry relating to the said Order of 1957 shall be omitted.

Dated this 28th day of March 1988.

Tom King
One of Her Majesty's Principal
Secretaries of State

(a) S.R. 1979 No. 92, to which there are amendments not relevant to the subject matter of this order
(b) S.R. 1982 No. 378, to which there are amendments not relevant to the subject matter of this order

SCHEDULE 1

Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden

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

Having established reciprocity in the field of social security by means of the Convention which was signed on their behalf at Stockholm on 9 June 1956;

Desiring to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE 1

- (1) For the purpose of this Convention:
- (a) "the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland and "Sweden" means the Kingdom of Sweden;
 - (b) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and also the Isle of Man, the Island of Jersey and the Islands of Guernsey, Alderney, Herm and Jethou and, in relation to Sweden, the territory of Sweden;
 - (c) "legislation" means the legislation specified in Article 2 of this Convention which is in force in the territory of one (or the other) State or in any part of that territory;
 - (d) "competent authority" means, in relation to the territory of the United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland, the Isle of Man Department of Health and Social Security, the Social Security Committee of the States of Jersey or the States of Guernsey Insurance Authority as the case may require, and, in relation to Sweden, the Government or the authority nominated by the Government;
 - (e) "insurance authority" means the authority or institution competent to decide entitlement to the benefit in question;
 - (f) "competent institution" means the authority or institution from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the State where that authority or institution is situated;
 - (g) "insured" means, in relation to the territory of the United Kingdom, that contributions have been paid or are payable by or in respect of the person concerned, or have been credited to him or for the purposes of Articles 21 to 23 of this Convention, that the person is, or is treated as being, an employed person;
 - (h) "contribution period" means a period in respect of which contributions appropriate to the benefit in question are payable, have been paid or treated as paid under the legislation of one or the other State;

- (i) “insurance period” means a contribution period, a period of employment or any other period recognised as a period of insurance or an equivalent period by the legislation under which it was completed, including any calendar year for which pension points have been credited under the Swedish social insurance scheme for the purpose of a supplementary pension on the basis of income from employment or other economic activity during the year in question or a portion thereof;
 - (j) “equivalent period” means in relation to the territory of the United Kingdom a period for which contributions appropriate to the benefit in question have been credited under the legislation of that State;
 - (k) “pension”, “allowance” or “benefit” mean a pension, allowance or benefit under the applicable legislation, including all the constituent parts thereof which are financed out of public funds as well as all increases and additional payments;
 - (l) “old age pension” includes, in relation to the territory of the United Kingdom, a retirement pension under the legislation of that State and, in relation to Sweden, an old age pension in the form of a basic pension or a supplementary pension;
 - (m) “benefit in respect of childbirth” means, in relation to the territory of the United Kingdom, maternity allowance under the legislation of that State and, in relation to Sweden, parental benefit;
 - (n) “survivor’s benefit” means in relation to the territory of the United Kingdom, widow’s allowance, widowed mother’s allowance and widow’s pension under the legislation of that State;
 - (o) “orphan’s benefit” means, in relation to the territory of the United Kingdom, guardian’s allowance and child’s special allowance under the legislation of that State and, in relation to Sweden, child’s pension under the legislation of Sweden;
 - (p) “family allowance” includes, in relation to the territory of the United Kingdom, child benefit under the legislation of that State, and in relation to Sweden, general children’s allowance under the legislation of that State;
 - (q) “ship or vessel” means, in relation to the territory of the United Kingdom, any ship or vessel, whose port of registry is a port in that territory or in the case of a hovercraft, which is registered in that territory, or any other ship or vessel of which the owner (or managing owner if there is more than one owner) or manager resides or has his principal place of business in that territory and, in relation to Sweden, any ship or vessel flying the Swedish flag;
 - (r) “gainfully occupied” means being an employed or self-employed person;
 - (s) “employed person” means a person who comes within the definition of an employed person or an employed earner or a person who is treated as such in the applicable legislation;
 - (t) “employment” means employment as an employed person;
 - (u) “self-employed person” means a person who comes within the definition of a self-employed earner or a person who is treated as such in the applicable legislation;
 - (v) “social assistance” means, in relation to the territory of the United Kingdom, supplementary benefit under the legislation of that State, and, in relation to Sweden, social assistance provided for in Swedish laws.
- (2) Other words and expressions which are used in the Convention have the meanings respectively assigned to them in the legislation concerned.

(3) For the purpose of applying those provisions of this Convention which apply to nationals of one or the other State "national" means, in relation to the United Kingdom, any British citizen, British Dependent Territories citizen, British Overseas citizen or British subject.

ARTICLE 2

(1) The provisions of this Convention shall apply,

(a) in relation to the territory of the United Kingdom, to:

- (i) the Social Security Acts 1975 to 1984 and the Social Security (Northern Ireland) Acts 1975 to 1984;
- (ii) the Social Security Acts 1975 to 1984 (Acts of Parliament) as those Acts apply to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald);
- (iii) the Social Security (Jersey) Law 1974;
- (iv) the Social Insurance (Guernsey) Law 1978;
- (v) the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as that Act applies to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald); the Family Allowances (Jersey) Law 1972 and the Family Allowances (Guernsey) Law 1950;

and the legislation which was consolidated by those Acts, Laws or Orders or repealed by legislation consolidated by them;

(b) in relation to the territory of Sweden, to the legislation on:

- (i) insurance for sickness cash benefit and parental insurance;
- (ii) basic pension;
- (iii) supplementary pension insurance;
- (iv) general children's allowances;
- (v) occupational accidents and diseases insurance;
- (vi) unemployment insurance and labour market cash support.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, this Convention shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) This Convention shall not apply to Regulations on social security of the European Communities or to any convention on social security which either State has concluded with a third state or to any laws or regulations which amend the legislation specified in paragraph (1) of this Article for the purpose of giving effect to such a convention but shall not prevent either State from taking into account under its legislation the provisions of any convention which that State has concluded with a third state.

(4) This Convention shall apply to any legislation which relates to a branch of social security not covered by the legislation specified in paragraph (1) of this Article, only if the two States make an agreement to that effect.

ARTICLE 3

(1) In so far as it does not contain provisions to the contrary, this Convention shall apply to:

- (a) nationals of the States and persons deriving their rights from such nationals;
- (b) other persons who are, or have been, covered by the legislation of either of the States and to persons deriving their rights from such persons.

(2) Except where otherwise provided in this Convention, nationals of one State, who are resident in the territory of the other State, shall be treated as nationals of the latter State in the implementation of the legislation of that State.

(3) The provisions in paragraph (2) of this Article shall *mutatis mutandis* also apply to:

- (a) refugees and stateless persons, as referred to in the Convention of 28 July 1951 relating to the Status of Refugees and the Protocol of 31 January 1967 to the said Convention, as well as the Convention of 28 September 1954 relating to the Status of Stateless Persons;
- (b) other persons with regard to rights which they derive from a national of one State or from a refugee or a stateless person referred to in this Article.

ARTICLE 4

(1) Subject to the provisions of Articles 14 to 23 of this Convention:

- (a) old age pension, survivor's benefit, invalidity benefit other than non-contributory invalidity pensions, or any pension, allowance or gratuity payable in respect of an industrial injury or industrial disease under the legislation of the United Kingdom shall be payable to persons in the territory of Sweden, as if they were in the territory of the United Kingdom;
- (b) old age, invalidity and survivor's pensions as well as cash benefits for industrial injuries and diseases under the legislation of Sweden shall be payable to persons residing in the territory of the United Kingdom, as if they were residing in the territory of Sweden.

(2) Where, under the legislation of one State, any benefit for which specified provision is made in this Convention or any increase of such benefit would be payable for a dependant if he were in the territory of that State, it shall be paid while he is in the territory of the other State.

(3) Except where otherwise provided in this Convention, pensions, allowances or benefits payable by one State shall be paid to nationals of the other State who are resident in a third state, on the same terms and to the same extent as to nationals of the first State, resident in that third state.

PART II

PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE

ARTICLE 5

(1) Subject to the following provisions of this Article and the provisions of Articles 6 to 9 of this Convention, where a person is gainfully occupied, his liability to be insured shall be determined under the legislation of the State in whose territory he is so occupied. Where a person is gainfully occupied in the territories of both States, he shall be liable to be insured in each territory in respect of his gainful occupation in that territory.

(2) Where a person is not gainfully occupied, any liability to be insured shall be determined under the legislation of Sweden if he is resident there or under the legislation of the territory of the United Kingdom if he is ordinarily resident in that territory.

ARTICLE 6

(1) Where a person, who is insured under the legislation of one State and is employed by an employer in the territory of that State, is sent by that employer to work in the territory of the other State, the legislation of the former State shall

continue to apply to him as if he were employed in the territory of that State provided that the employment in the territory of the latter State is not expected to last for more than 12 months. Where, for unforeseen reasons, his employment in the territory of the latter State continues after such a period of twelve months, the legislation of the former State shall continue to apply to him for a further period of not more than twelve months, provided that the competent authority of the latter State agrees thereto before the end of the first period of twelve months.

(2) The following provisions shall apply to any person employed as a member of the travelling personnel of an undertaking engaged in the transport of passengers or goods by road or air, whether for another undertaking or on its own account;

- (a) subject to the provisions of sub-paragraphs (b) and (c) of this paragraph, where a person is employed by an undertaking which has its principal place of business in the territory of one State, the legislation of that State shall apply to him, even if he is resident in the territory of the other State;
- (b) subject to the provisions of sub-paragraph (c) of this paragraph, where the undertaking has a branch or agency in the territory of one State and a person is employed by that branch or agency the legislation of that State shall apply to him;
- (c) where a person is resident in the territory of one State and is employed in that territory, the legislation of that State shall apply to him, even if the undertaking which employs him does not have its principal place of business or any branch or agency in that territory.

(3) A person, who is subject to Swedish legislation under the provisions of this Article, shall for such purposes be considered to be resident in Sweden.

ARTICLE 7

(1) Subject to the provisions of paragraphs (2) and (3) of this Article, where a person is employed on board any ship or vessel of one State, the legislation of that State shall apply to him as if any conditions relating to residence were satisfied in his case, provided that he is a national of either State.

(2) Where a person, who is insured under the legislation of one State and employed in the territory of that State or on board any ship or vessel of that State, is sent by an employer in the territory of that State to work on board a ship or vessel of the other State, the legislation of the former State shall continue to apply to him provided that his employment on board the ship or vessel of the latter State is not expected to last for a period of more than twelve months. Where, for unforeseen reasons, his employment on board the ship or vessel of the latter State continues after such period of twelve months, the legislation of the former State shall continue to apply to him for a further period of not more than twelve months, provided that the competent authority of the latter State agrees thereto before the end of the first period of twelve months.

(3) Where a person, who is resident in the territory of one State and employed on board any ship or vessel of the other State, is paid remuneration in respect of that employment by a person who is resident in, or by an undertaking which has its principal place of business in the territory of the former State, the legislation of the former State shall apply to him as if the ship or vessel were a ship or vessel of the former State, and the person or undertaking by whom the remuneration is paid shall be treated as the employer for the purposes of such legislation.

ARTICLE 8

(1) This Convention does not affect the provisions of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations as far as they concern the legislation mentioned in paragraphs (1) and (2) of Article 2.

(2) Subject to the provisions of Articles 6 and 7 and of paragraph (1) of this Article, where any person, who is in the Government Service of one State or in the service of any public corporation of that State, is employed in the territory of the other State, the legislation of the former State concerning liability to be insured shall apply to him as if he were employed in its territory, if this is agreed between the competent authorities in accordance with Article 9.

ARTICLE 9

(1) The competent authorities of the two States may agree to modify the provisions of Articles 5 to 8 of this Convention in respect of particular persons or categories of persons.

(2) The provisions of Article 6 paragraph (3) shall apply, *mutatis mutandis*, to cases referred to in this Article.

PART III

SPECIAL PROVISIONS

SECTION 1

Special Provisions Relating to the Application of the Legislation of the Territory of the United Kingdom

ARTICLE 10

(1) Subject to the provisions of paragraphs (4) and (5) of this Article, for the purpose of calculating entitlement to an old age pension under the legislation of the United Kingdom in accordance with Article 15 of this Convention, or of calculating entitlement to a United Kingdom widow's benefit under Article 17, or of calculating entitlement under the legislation of the United Kingdom to any benefit specified in Articles 11 to 13 of this Convention, insurance periods completed under the legislation of Sweden before 6 April 1975 shall be treated as if they had been insurance periods completed under the legislation of the United Kingdom.

(2) Subject to the provisions of paragraph (4) of this Article, for the purpose of calculating entitlement to an old age pension under the legislation of the United Kingdom in accordance with Article 15 of this Convention, or of calculating entitlement to a United Kingdom widow's benefit under Article 17, or of calculating entitlement under the legislation of the United Kingdom to any benefit specified in Articles 11 to 13 of this Convention, insurance periods completed as a self-employed person under the legislation of Sweden after 5 April 1975 shall be treated as if they had been insurance periods completed as a self-employed person under the legislation of the United Kingdom.

(3) Subject to the provisions of paragraph (7) of this Article, for the purpose of calculating an earnings-factor for entitlement to any benefit referred to in Articles 11 to 17 of this Convention and provided under the legislation specified in Article 2(1)(a)(i) and (ii) of this Convention, a person shall be treated for each week beginning in a relevant tax year commencing on or after 6 April 1975, the whole of which week is an insurance period completed as an employed person under the legislation of Sweden, as having paid a contribution as an employed earner on earnings equivalent to two-thirds of that year's weekly upper earnings limit.

(4) For the purpose of calculating the appropriate contribution factor to establish entitlement to any benefit referred to in Articles 11, 12 and 14 to 17 of this Convention and provided under the legislation specified in Article 2(1)(a)(iii) of this Convention, a person shall be treated:

- (a) for each week in an insurance period completed under the legislation of Sweden, being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;
- (b) for each week in an insurance period completed under the legislation of Sweden, being a week in the relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.

(5) For the purpose of calculating entitlement to benefit in accordance with Articles 11 to 17 and Article 24 of this Convention under the legislation specified in Article 2(1)(a)(iv) of this Convention, insurance periods completed under the legislation of Sweden shall be treated as if they had been insurance periods completed under the legislation of Guernsey.

(6) Subject to the provisions of paragraphs (8) and (9) of this Article, for the purpose of converting insurance periods completed under the legislation of the United Kingdom before 6 April 1975, each contribution period or equivalent period completed under the legislation of that State shall be treated as if it had been an insurance period completed under the legislation of Sweden.

(7) For the purpose of converting to an insurance period any earnings factor achieved in any tax year commencing on or after 6 April 1975 under the legislation specified in Article 2(1)(a)(i) and (ii) of this Convention, the competent authority of the territory of the United Kingdom shall divide the earnings factor by that year's lower earnings limit. The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in that year, shall be treated as representing the number of weeks in the insurance period completed under that legislation.

(8) For the purpose of converting to an insurance period any contribution factor achieved under the legislation specified in Article 2(1)(a)(iii) of this Convention, the competent authority of the territory of the United Kingdom shall:

- (a) in the case of a quarterly contribution factor, multiply the factor achieved by a person in a quarter by thirteen; and
- (b) in the case of an annual contribution factor, multiply the factor achieved by a person in a year by fifty-two.

The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in a quarter or in a year, as the case may be, shall be treated as representing the number of weeks in the insurance period completed under that legislation.

(9) For the purpose of converting insurance periods completed after 5 April 1975 under the legislation specified in Article 2(1)(a)(iv) of this Convention, each insurance period completed under that legislation shall be treated as if it had been an insurance period completed under the legislation of Sweden.

(10) Where it is not possible to determine accurately the periods of time in which certain insurance periods were completed under the legislation of one State, such periods shall be treated as if they did not overlap with insurance periods completed under the legislation of the other State, but they shall be taken into account to the best advantage of the beneficiary.

(11) For the purposes of determining entitlement to additional component payable under the legislation of the territory of the United Kingdom, no account shall be taken of any insurance period completed under the legislation of Sweden.

SECTION 2

Sickness Benefit, Benefit in respect of Childbirth and Maternity Grant

ARTICLE 11

(1) Where a person has, since his last arrival in the territory of one State, completed a contribution period under the legislation of that State, then for the purpose of any claim for sickness benefit made under the legislation of that State, any insurance period, completed under the legislation of the other State shall, subject to the provisions of Article 10 of this Convention, be treated as if it were an insurance period completed under the legislation of the former State.

(2) Where a person has, since his last arrival in the territory of one State, completed an insurance period under the legislation of that State, then for benefit in respect of childbirth, any insurance period completed under the legislation of the other State shall, subject to the provisions of Article 10 of this Convention, be treated as if it were an insurance period completed under the legislation of the former State.

(3) Where a person is entitled to sickness benefit under the legislation of one State he shall be entitled to receive that benefit during a temporary stay in the territory of the other State. This provision applies *mutatis mutandis* to maternity allowance under the legislation of the United Kingdom and parental benefit under the legislation of Sweden.

(4) Where, but for the provisions of this paragraph, a person would be entitled to sickness benefit or benefit in respect of childbirth under the legislation of both States for the same period by virtue of paragraph (1) or (2), respectively, of this Article, that benefit shall be granted exclusively under the legislation of the State in whose territory he is present.

ARTICLE 12

(1) Where a person has, since his last arrival in the territory of Jersey or Guernsey, completed a contribution period under the legislation of Jersey or Guernsey, as the case may be, then for the purpose of any claim for maternity grant made under the legislation of Jersey or Guernsey, any insurance period completed under the legislation of Sweden shall, in accordance with the provisions of Article 10 of this Convention, be treated as if it were an insurance period completed under the legislation under which the claim is made.

(2) Where a woman is confined in Great Britain, Northern Ireland or the Isle of Man (other than a woman who is treated as having been confined there by virtue of paragraph (3) of this Article), periods during which she was present in the territory of Sweden shall be treated for the purpose of a claim by her for maternity grant under the legislation of the State in whose territory the confinement occurred as if they were periods during which she was present in that territory.

(3) For the purpose of any right to maternity grant under the legislation of the United Kingdom a confinement in the territory of Sweden shall be treated as if it were a confinement in the territory of the United Kingdom.

(4) Where, but for the provisions of this paragraph, a person would be entitled to receive a maternity grant under the legislation of more than one part of the territory of the United Kingdom by virtue of the provisions of this Convention, a grant shall be payable only under the legislation of the part in which the confinement occurred. If the confinement occurred in Sweden the grant shall be payable under the legislation of that part of the territory of the United Kingdom in which she was last resident.

SECTION 3

Unemployment Benefit

ARTICLE 13

(1) Subject to the provisions of paragraph (2) of this Article, where a person has, since his last arrival in the territory of one State, completed a contribution period under the legislation of that State, then for the purpose of a claim for unemployment benefit under the legislation of that State, any insurance period completed under the legislation of the other State shall, subject to the provisions of Article 10 of this Convention, be treated as if it were an insurance period completed under the legislation of the former State, provided that it would have been considered as an insurance period if it had been completed under the legislation of that State, and provided that:

- (a) periods of insurance or periods of employment completed under the legislation of Jersey shall not be taken into account for the purpose of determining entitlement to unemployment benefit under the legislation of Sweden; and
- (b) periods of insurance or periods of employment completed under the legislation of Sweden shall be taken into account for the purpose of determining entitlement to unemployment benefit only under the legislation specified in Article 2(1)(a)(i), (ii) and (iv) of this Convention.

(2) The application of paragraph (1) to Swedish legislation presupposes that the person concerned has been employed in Sweden for at least four weeks in total during the last twelve months before submitting his claim. Paragraph (1) applies, however, even when his employment has terminated before the expiration of four weeks, if it was terminated through no fault of the employee and had been intended to last for a longer period.

(3) Where a person claims unemployment benefit under the legislation of one State by virtue of paragraph (1) of this Article, any period for which he received such benefit under the legislation of the other State shall be taken into account as if it were a period during which he had received such benefit under the legislation of the former State provided that that period fell within the last twelve months before the first day for which unemployment benefit becomes payable under the legislation of the former State.

SECTION 4

Old Age Pension and Survivor's Benefit under the Legislation of the Territory of the United Kingdom

ARTICLE 14

(1) Subject to the provisions of paragraph (2) of this Article, where a person is entitled to an old age pension under the legislation of the territory of the United Kingdom otherwise than by virtue of the provisions of this Convention, that pension shall be payable and the provisions of Article 15 of this Convention shall not apply.

(2) Notwithstanding any other provision of this Article or of Article 15 of this Convention, a married woman who is not entitled to an old age pension under the legislation of the United Kingdom by virtue of her own insurance periods, but who is entitled to a Category B retirement pension under that legislation by virtue of insurance periods completed by her husband, shall be entitled to claim an old age pension in accordance with the said Article 15. Where by virtue of the said Article 15 she would have entitlement to an old age pension under the legislation of the United

Kingdom, she shall be entitled to choose to receive that pension in preference to the Category B retirement pension which could otherwise be payable under that legislation by virtue of the insurance periods completed by her husband.

ARTICLE 15

(1) Subject to the provisions of Article 10 and of paragraph (2) of Article 14 of this Convention, where a person is not entitled to an old age pension under the legislation of the territory of the United Kingdom other than by virtue of this Convention any insurance period which he has completed under the legislation of Sweden shall be treated as if it were an insurance period completed under the legislation of the territory of the United Kingdom and his entitlement to old age pension under the legislation of the territory of the United Kingdom shall be determined in accordance with paragraphs (2) and (3) of this Article.

(2) The insurance authority in the territory of the United Kingdom shall determine:

- (a) first the amount of the theoretical pension which would be payable if all the insurance periods completed by the person under the legislation of both States had been completed under the legislation of the territory of the United Kingdom; and then
- (b) the proportion of such theoretical pension which bears the same relation to the whole as the total of the insurance periods completed by the person under the legislation of that State, or of a part of the territory of that State, bears to the total of all the insurance periods which he has completed under the legislation of both States.

The proportionate amount thus calculated shall be the pension actually payable.

(3) For the purposes of the calculation in paragraph (2) of this Article where all the insurance periods completed by any person under the legislation of

- (a) either the United Kingdom or the Isle of Man amount to less than one reckonable or as the case may be, qualifying year, or relate only to periods before 6 April 1975 and in aggregate amount to less than 50 weeks; or
- (b) Jersey amount to less than an annual contribution factor of 1.00; or
- (c) Guernsey amount to less than 50 weeks,

those periods shall be treated as if they had been completed under the legislation of any other part of the territory of the United Kingdom under which a pension is, or if such periods are taken into account would be, payable. Where no such pension is or would be payable by any other part of the territory of the United Kingdom, the periods shall be disregarded.

(4) For the purpose of applying the provisions of paragraph (2) of this Article:

- (a) the insurance authority of the territory of the United Kingdom shall take account only of insurance periods (completed under the legislation of either State) which would be taken into account for the determination of pensions under the legislation of the territory of the United Kingdom if they were completed under the legislation of that State, and in relation to a woman shall, where appropriate, take into account in accordance with that legislation insurance periods completed by her husband;
- (b) no account shall be taken of any graduated contributions paid under the legislation of the United Kingdom or the Isle of Man before 6 April 1975 and the amount of any graduated benefit payable by virtue of such contributions shall be added to the amount of any pensions payable in accordance with paragraph (2) of this Article under that legislation;
- (c) no account shall be taken under the legislation of the United Kingdom of any insurance period after the person attained pensionable age, but any increase of

benefit in respect of such a period under the legislation of the United Kingdom shall be added to any benefit payable under the legislation of the United Kingdom which has been calculated under paragraph (2) of this Article;

- (d) where a compulsory insurance period completed under the legislation of Sweden coincides with a voluntary insurance period completed under the legislation of the United Kingdom, only the compulsory insurance period shall be taken into account, provided that the amount of pension payable under the legislation of the United Kingdom under the provisions of paragraph (2) of this Article shall be increased by the amount by which the pension payable under the legislation of that State would have been increased if all voluntary contributions paid under that legislation had been taken into account;
- (e) where a contribution period completed under the legislation of Sweden coincides with an equivalent period completed under the legislation of the United Kingdom, the latter period shall not be taken into account;
- (f) where it is not possible to determine accurately the period of time in which certain insurance periods were completed, they shall be treated as if they did not overlap with other insurance periods and shall, where advantageous, be taken into account.

ARTICLE 16

Where a person does not simultaneously satisfy the conditions for entitlement to an old age pension under the legislation of both States, his entitlement under the legislation of the territory of the United Kingdom shall be established as and when he satisfies the conditions laid down by the legislation of that State. The provisions of Article 15 of this Convention shall apply and the amount of the pension shall be recalculated when the conditions for entitlement to an old age pension under the Swedish legislation are satisfied.

ARTICLE 17

The provisions contained in Articles 14 to 16 of this Convention shall apply, with such modifications as the differing nature of the benefits shall require, to survivor's benefit.

SECTION 5

Pensions under the Legislation of Sweden

ARTICLE 18

(1) Nationals of the United Kingdom as well as persons designated in Article 3 paragraph (3) of this Convention, whether they reside in Sweden or elsewhere, who do not fulfil the conditions of the Swedish legislation which apply to them as regards entitlement to basic pension, shall be entitled to basic pension according to the rules applying to Swedish nationals residing abroad.

(2) Disability benefits which are not supplements to a basic pension, care allowances for handicapped children, pension supplements and income-tested pension benefits are payable to persons designated in paragraph (1), provided that they are residing in Sweden, applying *mutatis mutandis* the rules contained in that paragraph.

(3) Article 4 of this Convention does not affect the provisions of Swedish legislation concerning the right of Swedish nationals residing outside Sweden to a basic pension.

ARTICLE 19

Where a national of one of the States or a person designated in Article 3 paragraph (3) of this Convention does not have sufficient Swedish periods of insurance to satisfy the requirements for entitlement to basic pension in accordance with the provisions applicable to Swedish nationals residing outside Sweden, periods of insurance completed under the legislation of the territory of the United Kingdom shall be taken into account in so far as they do not coincide with Swedish periods of insurance.

ARTICLE 20

(1) Where periods of insurance have been completed both under the Swedish supplementary pension insurance scheme and under the legislation of the territory of the United Kingdom, these periods shall when necessary be added together for the acquisition of a right to supplementary pension in so far as they do not coincide.

(2) When computing the amount of supplementary pension, only periods of insurance completed under the Swedish legislation will be taken into account.

(3) This Convention does not affect the provisions of Swedish legislation concerning the calculation of supplementary pensions for persons born in 1923 or earlier.

SECTION 6

Benefits for Industrial Injuries and Diseases

ARTICLE 21

(1) Where a person is employed in the territory of one State and the legislation of the other State applies to him in accordance with any of the provisions of Articles 5 to 9 of this Convention, he shall be treated under that legislation for the purpose of any claim for benefit in respect of an industrial accident or an industrial disease contracted during that employment, as if the accident had occurred or the disease had been contracted in the territory of the latter State. Where benefit would be payable in respect of that claim if the person were in the territory of the latter State, it shall be payable while he is in the territory of the former State.

(2) Where a person sustains an accident after he leaves the territory of one State to go, in the course of his employment, to the territory of the other State but before he arrives in the latter territory, then, for the purpose of any claim for benefit in respect of that accident:

- (a) the accident shall be treated as if it had occurred in the territory of the State whose legislation applied to him at the time the accident occurred; and
- (b) his absence from the territory of that State shall be disregarded in determining whether his employment was as an employed person under that legislation.

ARTICLE 22

(1) Where a person has sustained an industrial injury or contracted an industrial disease, in respect of which the legislation of one State applies, and later sustains an industrial injury or contracts an industrial disease in respect of which the legislation of the other State applies, then for the purpose of determining the degree of his disablement under the legislation of the latter State, account shall be taken of the former injury or disease as if the legislation of the latter State applied to it.

(2) Where a person contracts an industrial disease, after having been employed in the territory of only one State in an occupation to which, under the legislation of that State, the disease may be attributed, the legislation of that State shall apply in his case, even if the disease is first diagnosed in the territory of the other State. This shall

apply also in relation to any aggravation of the disease, provided that the person has not in the meantime been further exposed to the same risk in the territory of the latter State.

(3) Where a person contracts an industrial disease, after having been employed in the territories of both States in an occupation to which, under the legislation of both States, the disease may be attributed and he would be entitled to receive benefit in respect of that disease under the legislation of both States, whether by virtue of this Convention or otherwise, the benefit shall be payable only under the legislation of the State in whose territory he was last employed in that occupation before the disease was diagnosed.

(4) Where a person has suffered an aggravation of an industrial disease for which benefit has been paid in accordance with the provisions of paragraph (2) or (3) of this Article, the following provisions shall apply:

- (a) if the person has not had further employment in occupations to which the disease or the aggravation may be attributed, or has had such employment only in the territory of the State under whose legislation benefit has been paid, any additional benefit to which he may become entitled as a result of such aggravation shall be payable only under that legislation;
- (b) if the person makes a claim under the legislation of the State in whose territory he is employed on the ground that he has suffered an aggravation of the disease while he was employed in the territory of that State in occupations to which, under the legislation of that State the aggravation may be attributed, the competent institution of that State shall be liable to pay benefit only in respect of the aggravation as determined under the legislation of that State.

ARTICLE 23

Where, but for the provisions of this Article and subject to the provisions of Article 22(4)(b) of this Convention, a person would have been entitled to any benefit payable in respect of an industrial injury or disease under the legislation of both States, that benefit shall be granted exclusively under the legislation of the territory in which the person was last employed.

SECTION 7

Orphan's Benefit Payable under the Legislation of the Territory of the United Kingdom

ARTICLE 24

(1) For the purpose of any claim for orphan's benefit under the legislation of the territory of the United Kingdom any insurance period or period of presence completed under the legislation of, or in the territory of, Sweden, as the case may be, shall be treated as if it were respectively an insurance period or period of presence completed under the legislation of, or in the territory of, the United Kingdom.

(2) Where a person would be entitled to receive orphan's benefit under the legislation of the territory of the United Kingdom other than by virtue of paragraph (1) if that person or the orphan for whom the benefit is claimed were resident in the territory of that State, it shall be paid while that person, or the orphan, is resident in Sweden.

(3) Where, but for the provisions of this paragraph, a person would be entitled to receive orphan's benefit under the legislation of both States in respect of the same orphan, whether by virtue of this Convention or otherwise, he shall be entitled to receive benefit only under the legislation of the State in whose territory the orphan is resident.

SECTION 8

Family Allowance

ARTICLE 25

(1) For the purpose of a claim for family allowance under the legislation of one State periods of residence completed under the legislation of the other State shall be treated as if they were periods of residence completed under the legislation of the former State.

(2) If entitlement to family allowance exists under the legislation of both States with regard to the same child and the same period, family allowance shall be payable only under the legislation of Sweden if the child is resident there or under the legislation of the territory of the United Kingdom if he is resident in that territory.

SECTION 9

Recovery of Advance Payments and Overpayments of Benefit

ARTICLE 26

(1) Where a competent institution of one State has made an advance payment of any benefit for any period, any arrears of a corresponding benefit which become payable for the same period under the legislation of the other State may be withheld, provided that the amount so withheld shall not exceed the amount of the advance payment. Where a competent institution of one State has overpaid a benefit for any period for which a competent institution of the other State afterwards becomes liable to pay a corresponding benefit, the overpayment shall be regarded, for the purposes of the first sentence of this paragraph, as an advance payment.

(2) Where a person has received social assistance under the legislation of one State for a period for which that person subsequently becomes entitled to any benefit under the legislation of the other State, the competent institution of the latter State, at the request of and on behalf of the competent institution of the former State, shall withhold from the benefit due for that period the amount by which the social assistance paid exceeded what would have been paid, had the benefit under the legislation of the latter State been paid before the amount of social assistance was determined, and shall transfer the amount withheld to the competent institution of the former State.

PART IV

MISCELLANEOUS PROVISIONS

ARTICLE 27

(1) The competent authorities of the two States shall establish the administrative measures necessary for the application of the present Convention.

(2) The competent authorities of the two States shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Convention or about changes in their national legislation in so far as these changes affect the application of the provisions of this Convention.

(3) The competent authorities, insurance authorities and competent institutions of the two States, may, for the purpose of applying the provisions of this Convention, correspond directly with one another, or with any person affected by this Convention, or with his legal representative.

(4) For the purpose of facilitating the implementation of the provisions of this Convention, liaison bodies shall be established.

ARTICLE 28

(1) The competent authorities, insurance authorities and competent institutions of the two States shall assist one another on any matter relating to the application of this Convention, including medical examinations, as if the matter were one affecting the application of their own legislation. This assistance shall be free of charge.

(2) Where any benefit is payable under the legislation of one State to a person in the territory of the other State, the payment may be made by a competent institution of the latter State at the request of a competent institution of the former State.

ARTICLE 29

(1) Where the legislation of one State provides that any certificate or other document which is submitted under the legislation of that State shall be exempt, wholly or partly, from any taxes, legal dues, consular fees or administrative charges, this exemption shall apply to any certificate or other document which is submitted under the legislation of the other State or under the provisions of this Convention.

(2) All statements, documents and certificates of any kind required to be produced for the purposes of this Convention, shall be exempt from authentication by diplomatic or consular authorities.

ARTICLE 30

No certificate, document or statement of any kind written in an official language of either State shall be rejected on the ground that it is written in a foreign language.

ARTICLE 31

(1) Any claim, notice or appeal which should, for the purposes of the legislation of one State, have been submitted within a prescribed period of time to the insurance authority or the competent authority at the proper time of that State, shall be treated as if it had been submitted to that insurance authority or competent authority at the proper time if it is submitted within the same period of time to an insurance authority or competent authority of the other State.

(2) Except as provided in paragraph (3) of this Article any claim for benefit submitted under the legislation of one State shall be deemed to be a claim for the corresponding benefit under the legislation of the other State in so far as this corresponding benefit is payable in accordance with the provisions of the present Convention.

(3) Where a claim for old age pension is made under the legislation of the territory of the United Kingdom the provisions of paragraph (2) of this Article shall not apply in respect of old age pension under the legislation of Sweden, if the applicant states that the application refers solely to pension benefit under the legislation of the territory of the United Kingdom.

(4) Any document submitted for the purposes of the legislation of Sweden may, where appropriate, be treated as a notice of retirement given under the legislation of the United Kingdom.

(5) In a case to which the provisions of paragraph (1), (2) or (4) of this Article apply the authority to which the claim, notice, appeal or document has been submitted shall transmit it without delay to the insurance authority of the other State.

ARTICLE 32

(1) Payment of any benefit in accordance with the provisions of this Convention may be made in the currency of the State whose competent institution makes the payment, and any such payment shall constitute a full discharge of the obligation.

(2) Where a competent institution of one State has made a payment of benefit on behalf of the competent institution of the other State, in accordance with the provisions of paragraph (2) of Article 28 of this Convention, any reimbursement of the amounts paid by the former competent institution shall be in the currency of the latter State.

(3) Any remittance to be made in accordance with the provisions of this Convention shall be made in accordance with any agreement binding the two States at the time when such remittance is made.

ARTICLE 33

(1) Any dispute about the interpretation or application of this Convention shall be resolved through agreement between the competent authorities of each State.

(2) If any such dispute cannot be resolved in this manner, it shall be submitted, at the request of either State, to an arbitration tribunal which shall be composed in the following manner:

- (a) each State shall appoint an arbitrator within one month from receipt of the demand for arbitration. The two arbitrators shall appoint, from the nationals of a third country, a third arbitrator within two months from the date on which the State which was the last to appoint its arbitrator has notified the other State of the appointment;
- (b) if within the prescribed period either State should fail to appoint an arbitrator, the other State may request the President of the International Court of Justice or, in the event of his having the same nationality as one of the States, the Vice-President or next senior judge of that Court not having the nationality of either State, to make the appointment. A similar procedure shall be adopted at the request of either State if the two arbitrators cannot agree on the appointment of the third arbitrator.

(3) The decision of the arbitration tribunal shall be by majority vote. Its decision shall be binding on both States. Each State shall bear the expenses of the arbitrator appointed by it. The remaining costs shall be borne equally by the two States. The arbitration tribunal shall determine its rules of procedure.

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 34

(1) Upon the entry into force of this Convention, the Convention signed at Stockholm on 9 June 1956 shall be terminated, and shall be replaced by this Convention.

(2) Any benefit granted or any right acquired by a person in accordance with the provisions of the Convention signed at Stockholm on 9 June 1956 shall be maintained and any rights in course of acquisition under that Convention at the date of the entry into force of this Convention shall be settled in accordance with the provisions of this Convention.

(3) Benefits, other than lump sum payments, shall be payable in accordance with the provisions of this Convention in respect of events which happened before the date of its entry into force. However an accident which occurred or a disease which developed before that date, shall not, solely by virtue of this Convention, be treated as an industrial accident or disease if it would not have been so treated under any legislation or Convention in effect at the time of its occurrence or development. For the purpose of determining claims in accordance with the provisions of this

Convention, account shall be taken of insurance periods and periods of residence, employment or presence, completed before the date of its entry into force.

(4) Paragraph (3) of this Article shall not confer any right to receive payment of benefit for any period before the date of the entry into force of this Convention.

(5) For the purpose of applying the first sentence of paragraph (3) of this Article:

- (a) any right to benefit acquired by a person in accordance with the provisions of this Convention shall, at the request of the person concerned, be granted with effect from the date of its entry into force, provided that the request has been made within two years after that date;
- (b) any right to benefit acquired by a person in accordance with the provisions of the Convention signed at Stockholm on 9 June 1956, may, at the request of the person concerned, be determined afresh in accordance with the provisions of this Convention with effect from the date of its entry into force, provided that the request has been made within two years after that date;
- (c) where the request for the benefit to be determined afresh is made more than two years after the date of entry into force of this Convention, payment shall be made from the date determined under the legislation concerned without the application of the present Convention.

ARTICLE 35

This Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible. This Convention shall enter into force on the first day of the third month following the month in which the instruments of ratification are exchanged.

ARTICLE 36

This Convention shall remain in force for an indefinite period. Either State may terminate it by giving six months' notice in writing to the other.

ARTICLE 37

In the event of the termination of this Convention, any right to benefit acquired by a person in accordance with its provisions shall be maintained, and negotiations shall take place for the settlement of any other rights then in the course of acquisition by virtue of those provisions.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Stockholm this 29th day of June 1987 in the English and Swedish languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and Northern
Ireland:

Richard Parsons

For the Government of the Kingdom of
Sweden:

G. Sigurdson

SCHEDULE 2

Protocol Concerning Medical Treatment

At the time of signing the Convention on Social Security concluded this day between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden (hereinafter referred to as "the Convention") the undersigned, being duly authorised thereto by their respective Governments;

Desiring to provide a resident of the territory of either of the two States during a temporary stay in the territory of the other State with immediate medical treatment;

Have agreed as follows:

ARTICLE 1

(1) For the purpose of this Protocol:

(a) 'medical treatment' means:

- (i) in relation to the United Kingdom and the Isle of Man, treatment by services provided under national health legislation in force in the United Kingdom and the Isle of Man and administered by health authorities or by the Isle of Man Department of Health and Social Security respectively;
- (ii) in relation to the Island of Jersey, hospital medical and nursing services, including dental, ophthalmic and pharmaceutical services provided by the Public Health Committee of the States of Jersey;
- (iii) in relation to the Islands of Guernsey, Alderney, Herm, Jethou and Sark, hospital treatment provided by the Board of Health of the States of Guernsey;
- (iv) in relation to Sweden, medical care under the Swedish Health Insurance legislation;

(b) 'resident' means:

- (i) in relation to the United Kingdom and the Isle of Man, a person who is ordinarily resident in the United Kingdom or the Isle of Man who holds either a valid United Kingdom passport or as appropriate one of the following:
 - a National Health Service Medical Card in the case of Great Britain and the Isle of Man
 - a Health Service Medical Card in the case of Northern Ireland;
- (ii) in relation to the Island of Jersey, a person who is ordinarily resident in that island who holds a valid United Kingdom passport or a certificate issued by the Social Security Committee of the States of Jersey;
- (iii) in relation to the Islands of Guernsey, Alderney, Herm, Jethou and Sark, a person who is ordinarily resident in one of those islands who holds either a valid United Kingdom passport or proof of insurance issued by the Social Security authority of the States of Guernsey or other proof of residence;
- (iv) in relation to Sweden, a person who is ordinarily resident in Sweden and holds either a valid Swedish passport or a social insurance card or certificate issued by a Swedish Social Insurance Office.

(2) Other expressions have the same meaning as in the Convention.

ARTICLE 2

(1) A resident of the territory of one State who is temporarily in the territory of the other and needs immediate medical treatment shall be provided, on terms no less favourable than those which apply to a resident of that territory, with such medical treatment, including any medicines, as is considered for clinical reasons to be immediately necessary. The authorities of that territory shall bear all costs arising therefrom apart from charges normally paid by residents of that territory.

(2) The provisions of this Article shall not apply to a resident of one territory who goes to the other territory for the specific purpose of obtaining medical treatment under this Protocol unless the person seeking treatment is a member of the crew or passenger on any ship, vessel or aircraft travelling to or from or diverted to the territory of one of the States and the need for urgent treatment has arisen during the voyage or flight.

ARTICLE 3

(1) The competent authorities for the implementation of this Protocol are:

- (a) in relation to the territory of the United Kingdom of Great Britain and Northern Ireland, the Department of Health and Social Security and the other authorities of the territory responsible for the provision of services as defined in Article 1(1);
- (b) in relation to Sweden, the National Social Insurance Board.

(2) These competent authorities shall send to each other as soon as possible details of any changes in laws or regulations operating in the territories of their respective Governments which may significantly affect the nature and scope of services provided under this Protocol.

ARTICLE 4

Any disagreement relating to the application of this Protocol shall be resolved by consultation between the competent authorities.

ARTICLE 5

This Protocol, which shall enter into force at the same time as the Convention, shall form an integral part of the Convention.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Stockholm on this 29th day of June 1987, in the English and Swedish languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and Northern
Ireland:

Richard Parsons

For the Government of the Kingdom of
Sweden:

G. Sigurdson

EXPLANATORY NOTE

(This note is not part of the Order.)

This order makes provision for the modification of the Social Security (Northern Ireland) Act 1975, and that part of the Child Benefit (Northern Ireland) Order 1975 which relates to child benefit, so as to give effect to the Convention on social security made between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden on 29th June 1987 and set out in Schedule 1. The Protocol concerning medical treatment is set out in Schedule 2.

The Convention relates to reciprocity in contributions, sickness and maternity benefit, unemployment benefit, old age pension and widow's benefits, benefits for industrial injuries and diseases and child benefit.