

SCHEDULE

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

Part I

GENERAL PROVISIONS

ARTICLE 1 Definitions

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

“additional pension” payable under the legislation of Great Britain, Northern Ireland or the Isle of Man means any additional pension based on the payment of insurance contributions above the level required for entitlement to basic pension;

“benefits for industrial accidents and industrial diseases” means—

- (a) a pension or benefit payable to a person for loss of physical or mental faculty as a result of an industrial accident or an industrial disease arising out of, and in the course of, employed earner’s employment under the legislation of Great Britain, Northern Ireland or the Isle of Man, or
- (b) a pension or benefit payable to a person for personal injury or for loss of physical or mental faculty as a result of an accident arising out of, and in the course of, an insured person’s employment or self-employment or an industrial disease under the legislation of Guernsey, or
- (c) a pension or benefit payable to a person for the permanent loss of physical or mental faculty as a result of an industrial accident or an industrial disease arising out of, and in the course of, a person’s employment or self-occupation as construed under the legislation of Malta;

“Category A retirement pension” means either, or both, a basic retirement pension and an additional pension based on a person’s own insurance contributions or, for certain persons whose marriages have ended by divorce or widowhood, a basic retirement pension based on the former spouse’s insurance contributions, payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, and an old age pension based on a person’s own contributions or, for certain persons whose marriages have ended by divorce or widowhood, based on the former spouse’s contributions, payable under the legislation of Guernsey;

“Category B retirement pension” means a basic retirement pension payable to a married woman on her husband’s contributions, or, for a widow or widower, either, or both, a basic retirement pension and an additional pension based on the late spouse’s contributions, payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, and an old age pension payable under the legislation of Guernsey, to a married woman by virtue of the contributions of her husband while he is alive;

“competent authority” means in relation to the territory of the United Kingdom, the Department of Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of Man, or the Guernsey Social Security Authority as the case may require, and in relation to Malta, the Department of Social Security in Malta;

“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 in question;

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“dependant” means a person 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 in question;

“employed person” means—

- (i) except for the purposes of Articles 26 to 28, a person who, in the applicable legislation, comes within the definition of an employed earner or of an employed person or is treated as such and the words “person is employed” shall be construed accordingly, or
- (ii) for the purposes of Articles 26 to 28, a person who is, or who is treated as being, an employed earner or an employed person under the legislation of Great Britain, Northern Ireland or the Isle of Man, or an employed or self-employed person under the legislation of Guernsey;

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

“equivalent period” means a period for which contributions appropriate to the benefit in question have been credited under the legislation of the Party in question;

“first contribution condition” means, for sickness benefit—

- (i) in relation to Great Britain, Northern Ireland or the Isle of Man, that a person has paid fifty-two Class I or Class II contributions at any time before 6th April 1975, or has paid, in an income tax year beginning on or after 6th April 1975, Class I or Class II contributions producing an earnings factor of at least fifty times that year’s lower earnings limit, or
- (ii) in relation to Guernsey, that a person has paid at least twenty-six reckonable contributions since 4th January 1965;

“former Conventions” means the Conventions signed at Valletta on 26th October 1956 and 21st March 1958;

“gainfully employed” means, in relation to the United Kingdom, employed or self-employed and in relation to Malta, employed or self-occupied;

“Guernsey” means the Islands of Guernsey, Alderney, Herm and Jethou;

“income tax year” means in relation to the United Kingdom, the twelve months beginning with 6th April in any year;

“insurance authority” means the authority competent to decide entitlement to the benefit in question;

“insurance period” means a contribution period or an equivalent period;

“insured” means, in relation to both Parties, that contributions have been paid by, or are payable by, or in respect of, or have been credited in respect of, the person concerned;

“invalidity benefit” means—

- (i) long-term incapacity benefit, additional pension, invalidity allowance and incapacity age addition payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, or
- (ii) invalidity benefit payable under the legislation of Guernsey, or
- (iii) a pension in respect of invalidity payable under the legislation of Malta;

“legislation” means, in relation to a Party, such of the legislation specified in Article 2 as applies in the territory of a Party, or in any part of the territory of that Party;

“Malta” has the same meaning as that assigned to it in the Constitution of Malta;

“orphan’s benefit” means guardian’s allowance payable under the legislation of the United Kingdom, and orphan’s allowance and orphan’s supplementary allowance payable under the legislation of Malta;

“Party” means the United Kingdom, including any part of the United Kingdom, or Malta;

“pension”, “allowance” or “benefit” includes any increases of, or any additional amount payable with, a pension, allowance or benefit respectively;

“prescribed period” means, in relation to Guernsey, the period commencing on the same date under the legislation of Guernsey as the relevant period for the purposes of old age pension and ending on 31st December next preceding the date on which entitlement to invalidity benefit first arose;

“qualifying period” means, for invalidity benefit—

- (i) in relation to Great Britain, Northern Ireland, or the Isle of Man, a period of incapacity of 364 days under the legislation of Great Britain, Northern Ireland or the Isle of Man, or
- (ii) in relation to Guernsey, a period of incapacity of 156 days, excluding Sundays, under the legislation of Guernsey;

“qualifying year” means—

- (i) in relation to Great Britain, Northern Ireland or the Isle of Man, at least fifty weeks of insurance for periods before 6th April 1975, or that the person has received, or been treated as having received, earnings of at least fifty-two times the lower earnings limit in an income tax year after 5th April 1978 under the legislation of Great Britain, Northern Ireland and the Isle of Man, or
- (ii) in relation to Guernsey or Malta, an insurance period of not less than fifty weeks under the relevant legislation;

“reckonable year” means, in relation to the United Kingdom, an income tax year between 6th April 1975 and 5th April 1978 during which contributions have been paid on earnings received, or treated as received, of at least fifty times the lower earnings limit for that year;

“retirement pension” means retirement pension or old age pension payable under the legislation of the United Kingdom, and a pension in respect of retirement payable under the legislation of Malta, excluding a Two-Thirds Pension;

“seasonal worker” means a person subject to the legislation of Guernsey or Malta, who goes to the territory of Guernsey or Malta (not being the one in which he ordinarily resides) in order to carry out in that territory for an employer or undertaking with a place of business there, employment of a seasonal character which depends on the cycle of the seasons and which recurs automatically each year, and the duration of which cannot in any case exceed eight months, and who remains in that territory for the duration of his employment;

“second contribution condition” means, for sickness benefit—

- (i) in relation to Great Britain, Northern Ireland or the Isle of Man, that a person has either paid or has been credited with Class I or Class II contributions producing an earnings factor of at least fifty times the lower earnings limit in each of the last two income tax years before the relevant benefit year, or
- (ii) in relation to Guernsey, that a person has paid or been credited with at least twenty-six contributions in the relevant contribution year;

“self-employed person” means a person who, in the applicable legislation, comes within the definition of a self-employed earner or of a self-employed person or of a self-occupied person or is treated as such, and the words “person is self-employed” shall be construed accordingly;

“ship or vessel” means any ship or vessel whose port of registry is a port in either territory, or a hovercraft which is registered in that territory, and whose owner (or managing owner if there is more than one owner) resides in, or has a place of business in, that territory;

“sickness benefit” means,

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(i) short-term incapacity benefit at the lower, higher or long-term rate payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, or

(ii) sickness benefit payable under the legislation of Guernsey or Malta;

“social assistance” means income support payable under the legislation of Great Britain or Northern Ireland, or supplementary benefit payable under the legislation of the Isle of Man, and any non-contributory assistance or non-contributory pension or any non-contributory allowance in lieu of such assistance or pensions payable under the legislation of Malta;

“statutory sick pay” means a payment which an employer must make under the legislation of Great Britain or Northern Ireland in respect of sickness;

“territory” means,

(i) in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man and Guernsey, and references to the “United Kingdom” or to “territory” in relation to the United Kingdom shall include the Isle of Man and Guernsey, where appropriate, or

(ii) in relation to Malta, the Island of Malta, the Island of Gozo and other islands of the Maltese Archipelago, including the territorial waters thereof;

“unemployment benefit” means unemployment benefit or contribution-based jobseeker’s allowance payable under the legislation of Great Britain or Northern Ireland, or unemployment benefit payable under the legislation of the Isle of Man, Guernsey or Malta, including special unemployment benefit payable under the legislation of Malta;

“widow’s benefit” means—

(i) widow’s payment, widowed mother’s allowance and widow’s pension payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, or

(ii) widow’s allowance, widowed mother’s allowance and widow’s pension payable under the legislation of Guernsey, or

(iii) a pension in respect of widowhood payable under the legislation of Malta, excluding a Survivor’s Pension.

(2) Other words and expressions which are used in this Convention have the meanings respectively assigned to them in the legislation concerned.

(3) Any reference in this Convention to “Article” means an Article of this Convention, and any reference to a “paragraph” is a reference to a paragraph of the Article in which the reference is made, unless it is stated to the contrary.

ARTICLE 2 Scope of Legislation

(1) This Convention shall apply,

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

(i) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, the Social Security (Consequential Provisions) Act 1992, the Social Security (Incapacity for Work) Act 1994 and the Jobseekers Act 1995;

(ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security (Consequential Provisions) (Northern Ireland) Act 1992, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 and the Jobseekers (Northern Ireland) Order 1995;

(iii) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, the Social Security (Consequential Provisions) Act 1992 and the Social Security (Incapacity for Work) Act 1994 (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);

(iv) the Social Insurance (Guernsey) Law, 1978;

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

(b) in relation to Malta, to the Social Security Act, (Cap 318).

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

(3) This Convention shall apply, unless the Parties agree otherwise, only to benefits under the legislation specified in paragraph (1) at the date of entry into force of this Convention and for which specific provision is made in this Convention.

(4) This Convention shall not apply to legislation on social security of the Institutions of the European Community or to any convention on social security which either Party has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph (1) for the purpose of giving effect to such a convention, but shall not prevent either Party taking into account under its legislation the provisions of any other convention which that Party has concluded with a third party.

ARTICLE 3 Equal Treatment

A person, together with his dependants and survivors who is, or has been, subject to the legislation of one Party shall, while he is in the territory of the other Party, enjoy the provisions of the legislation of the other Party under the same conditions as a national of that Party, subject to the special provisions of this Convention.

ARTICLE 4 Provisions for the Export of Benefits

(1) Subject to Articles 13 to 16, 18 to 28 and 33—

(a) a person who would be entitled to receive a retirement pension, widow's benefit, invalidity benefit or any pension or benefit payable in respect of an industrial accident or an industrial disease under the legislation of the United Kingdom, if he were in the United Kingdom, shall be entitled to receive that pension or benefit while he is in Malta, as if he were in the United Kingdom, and

(b) a person who would be entitled to receive a pension in respect of retirement, widowhood or invalidity or any pension or benefit payable in respect of an industrial accident or an industrial disease under the legislation of Malta if he were in Malta, shall be entitled to receive that pension or benefit while he is in the United Kingdom, as if he were in Malta.

(2) Subject to Article 12(3), (4) and (7), and Articles 13 to 15, a person who continues to be entitled to receive sickness benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man while he is in Malta may, after having received, or been deemed to have received, 364 days sickness benefit, become entitled to receive invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man while he is in Malta, provided that he continues to satisfy the insurance authority of the former Party that he remains incapable of work.

(3) Subject to Article 12(3), (6) and (7), a person who continues to be entitled to receive sickness benefit or industrial injury benefit under the legislation of Guernsey while he is in Malta may, after having received, or been deemed to have received, 156 days sickness benefit or industrial injury benefit, become entitled to receive invalidity benefit under the legislation of Guernsey while he is in Malta, provided that he continues to satisfy the insurance authority of Guernsey that he remains incapable of work.

(4) Where, under the legislation of one Party, an increase of any of the benefits for which specific provision is made in this Convention would be payable for a dependant if he were in the territory of that Party, it shall be payable while he is in the territory of the other Party.