

SCHEDULE

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

Part II

PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE CONCERNING CONTRIBUTIONS LIABILITY

ARTICLE 5 **General Provisions**

(1) Subject to paragraphs (2) to (12) and Articles 6 to 10, where a person is gainfully employed, liability for contributions for him shall be determined under the legislation of the Party in whose territory he is so employed.

(2) Where a person is employed in the territory of both Parties for the same period, liability for contributions for him shall be determined only under the legislation of the Party in whose territory he is ordinarily resident.

(3) Where a person is self-employed in the territory of both Parties for the same period, liability for contributions for him shall be determined only under the legislation of the Party in whose territory he is ordinarily resident.

(4) Where a person is employed in the territory of one Party and self-employed in the territory of the other Party for the same period, liability for contributions for him shall be determined only under the legislation of the former Party.

(5) No provision of this Article shall affect a person's liability to pay a Class 4 contribution under the legislation of the United Kingdom.

(6) Where a person is not gainfully employed, any liability for contributions shall be determined under the legislation of the Party in whose territory he is ordinarily resident.

(7) Where, but for this paragraph, a person would be entitled to pay contributions voluntarily under the legislation of both Parties for the same period, he shall be entitled to pay contributions only under the legislation of one Party according to his choice.

(8) Where under Articles 6, 7(a) or (b) or 8(2) a person is employed in the territory of one Party whilst remaining liable for contributions under the legislation of the other Party, the legislation of the former Party shall not apply to him and he shall not be liable, nor entitled, to pay contributions under the legislation of the former Party.

(9) Where a person is gainfully employed in the territory of one Party and the legislation of the other Party does not apply to him in accordance with paragraphs (1) and (4), or ceases to apply to him under Articles 6, 7(a) or (b) or 8(2), the legislation of the former Party shall apply to him as if he were ordinarily resident in the territory of that Party.

(10) A person who is entitled to receive sickness benefit, maternity allowance, invalidity benefit or injury benefit for any period under the legislation of Malta while he is in Guernsey, shall be excepted from liability to pay a contribution in respect of that period, other than as an employed or self-employed person, under the legislation of Guernsey.

(11) A woman who is entitled to receive widow's benefit under the legislation of Guernsey while she is in Malta, shall not be credited with a Class 3 contribution in respect of every week during which that benefit is payable to her, but shall be credited, for the purposes of entitlement to retirement pension or death grant, in respect of each year during the whole or part of which such benefit is payable, with a number of Class 3 contributions equal to her husband's yearly average of reckonable contributions at the date of his death. If the rate of retirement pension payable to such a woman

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

would be less than the rate of widow's benefit formerly payable it shall be increased to that of the widow's benefit.

(12) For the purpose of determining, whether a person is entitled to be credited with a Class 1 contribution under the legislation of Guernsey in respect of any week of unemployment, any insurance period, or any period of employment, completed by him under the legislation of Malta, shall be treated as an insurance period or period of employment, as the case may be, under the legislation of Guernsey.

ARTICLE 6 Detached Workers

Subject to Articles 7 and 8, where a person insured under the legislation of one Party and employed by an employer with a place of business in the territory of that Party, is sent by that employer, either from the territory of that Party, or from a third country not party to this Convention, to work in the territory of the other Party, the legislation of the former Party concerning liability for contributions shall continue to apply to him as if he were employed in the territory of that Party, provided that the employment in the territory of the other Party is not expected to last for more than three years, and the legislation of the latter Party shall not apply to him.

ARTICLE 7 Travelling Personnel

Subject to Article 8, 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 whether for another undertaking or on its own account:

- (a) subject to sub-paragraphs (b) and (c), where a person is employed by an undertaking which has its principal place of business in the territory of one Party, the legislation of that Party concerning liability for contributions shall apply to him as if he were employed in its territory even if he is employed in the territory of the other Party;
- (b) subject to sub-paragraph (c), where the undertaking has a branch or agency in the territory of one Party and a person is employed by that branch or agency, the legislation of that Party concerning liability for contributions shall apply to him;
- (c) where a person is ordinarily resident in the territory of one Party and is employed wholly or mainly in that territory, the legislation of that Party concerning liability for contributions shall apply to him, even if the undertaking which employs him does not have a place of business or branch or any agency in that territory.

ARTICLE 8 Mariners and Others Employed on board a Ship or Vessel

(1) Subject to paragraphs (2) to (4), where a person is employed on board any ship or vessel of one Party, the legislation of that Party concerning liability for contributions shall apply to him as if any conditions relating to residence were satisfied in his case, provided that he is ordinarily resident in the territory of either Party.

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

(3) Where a person who is not normally employed at sea is employed other than as a member of the crew, on board a ship or vessel of one Party, in the territorial waters of, or at a port of, the other Party, the legislation concerning liability for contributions of the Party in whose territory he is ordinarily resident shall apply to him as if any conditions relating to residence were satisfied in his case.

(4) Where a person who is ordinarily resident in the territory of one Party and employed on board any ship or vessel of the other Party is paid remuneration in respect of that employment by a person who is ordinarily resident in, or by an undertaking having a place of business in, the territory of the former Party, the legislation of the former Party concerning liability for contributions shall apply to him as if the ship or vessel were a ship or vessel of the former Party, and the person or undertaking by whom the remuneration is paid shall be treated as the employer for the purpose of such legislation.

ARTICLE 9 Diplomats, Government Servants and Consular Employees

(1) This Convention shall not apply to persons who are exempted from the social security law of the Party in whose territory they are present or resident by virtue of the Vienna Conventions on Diplomatic or Consular Relations.

(2) Subject to paragraph (1), where any person who is in the Government Service of one Party or in the service of any public corporation of that Party is employed in the territory of the other Party, the legislation of the former Party concerning liability for contributions shall apply to him as if he were employed in its territory.

(3) Subject to paragraphs (1) and (2), where a person is employed in a diplomatic mission or consular post of one Party in the territory of the other Party, or in the private service of an official of such a mission or post, the legislation of the latter Party concerning liability for contributions shall apply to him as if he were employed in its territory, unless within three months of the entry into force of this Convention, or within three months of the beginning of the employment in the territory of the latter Party, whichever is later, he chooses to be insured under the legislation of the former Party, provided that he was so insured within the period of one month immediately before the commencement of the employment at that mission or post. Where, under this paragraph, a person has the right to choose to be insured under the legislation of the former Party but does not choose to do so, he shall not be liable, nor entitled, to pay contributions under the legislation of the former Party.

ARTICLE 10 Modification Provisions

Exceptionally, the competent authorities of the Parties may agree to modify the application of Articles 5 to 9 in respect of particular persons or categories of persons.