

SCHEDULE 1

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

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

Having established reciprocity in the field of social security by means of the Agreement which was signed on their behalf at London on 20 September 1972;

Wishing to consolidate the above Agreement and its extension and modification into a single document;

Wishing to extend and modify the scope of that reciprocity, including extension to the States of Jersey, and to take account of changes in their legislation;

Have agreed as follows—

Part I

General Provisions

Article 1

Definitions

(1) For the purpose of this Convention the following definitions apply, 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—

- (i) 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, and accident benefit payable under the legislation of Jersey, or
- (ii) a 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
- (iii) a benefit attributable to injury or disease in employment payable under the legislation of Jamaica;

“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 Jersey or 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

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under the legislation of Jersey or Guernsey to a married woman by virtue of the contributions of her husband while he is alive;

“competent authority” means—

- (i) 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
- (ii) in relation to Jersey, the Employment and Social Security Committee of the States of Jersey, or
- (iii) in relation to Guernsey, the Social Security Authority and,
- (iv) in relation to Jamaica, the Minister responsible for National Insurance, and any person or body to whom the functions, relevant to this Convention, of any of those persons or bodies, may be transferred;

“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 concerned;

“death grant” means—

- (i) a death grant payable under the legislation of Jersey or Guernsey, or
- (ii) a funeral grant payable under the legislation of Jamaica;

“dependant” means a person who would be treated as such for the purpose of any claim to an increase of benefit in respect of a dependant under the legislation concerned;

“employed person” means—

- (i) except for the purposes of Articles 22 to 24, 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 22 to 24, 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 Jersey or 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 either Party;

“former Agreement” means the Agreement signed at London on 20 September 1972;

“gainfully employed” means employed or self-employed;

“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 6 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 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 Jersey, Guernsey or Jamaica;

“Jersey” means the Island of Jersey;

“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;

“orphan’s benefit” means—

- (i) guardian’s allowance payable under the legislation of Great Britain, Northern Ireland or the Isle of Man or Guernsey, or

- (ii) orphan’s benefit payable under the legislation of Jamaica;

“Party” means, unless otherwise defined, the territory of the United Kingdom, including any part of the United Kingdom, or Jamaica;

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

“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 6 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 5 April 1978 under the legislation of Great Britain, Northern Ireland and the Isle of Man, or
- (ii) in relation to Jersey, an annual contribution factor of 1.00 under the legislation of Jersey, or
- (iii) in relation to Guernsey, an insurance period of not less than fifty weeks under the legislation of Guernsey;

“reckonable year” means, in relation to Great Britain, Northern Ireland and the Isle of Man, an income tax year between 6 April 1975 and 5 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;

“refugee” means a person so defined in Article 1 of the Convention on the Status of Refugees signed on 28 July 1951 and the Protocol to that Convention signed on 31 January 1967;

“retirement pension” means retirement pension or old age pension payable under the legislation of either Party;

“seasonal worker” means—

- (i) a person subject to the legislation of Jersey or Guernsey, or
- (ii) a person subject to the legislation of Jamaica

who goes to the territory of Jersey or Guernsey or Jamaica (not being the one in which he is ordinarily resident) in order to carry out in that territory for an employer or undertaking with a place of business there, employment of a seasonable 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;

“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 is treated as such, and the words “person is self-employed” shall be construed accordingly;

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“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 either territory, and whose legal or natural owner (or managing owner if there is more than one owner) resides in, or has a place of business in, either territory;

“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;

“territory” means—

- (i) in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man, Jersey and Guernsey, and references to the “United Kingdom” or to “territory” in relation to the United Kingdom shall include the Isle of Man, Jersey and Guernsey, where appropriate, or
- (ii) in relation to Jamaica, the island of Jamaica, the Pedro Cays, Morant Cays and other islands within Jamaica’s archipelagic system;

“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, widow’s pension and widowed father’s allowance payable under the legislation of Jersey, or
- (iii) widow’s allowance, widowed mother’s allowance and widow’s pension payable under the legislation of Guernsey, or
- (iv) widow’s and widower’s benefit payable under the legislation of Jamaica.

(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 an “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

Applicable 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 and the Social Security (Incapacity for Work) Act 1994;
- (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 and the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (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;
- (v) the Social Security (Jersey) Law, 1974;

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 Jamaica, to the National Insurance Act, 1965 and other legislation to which it refers.

(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—

(i) in relation to Great Britain or Northern Ireland, to legislation on social security adopted by the Council, or the Council and the Parliament of the European Community, or

(ii) in relation to Jamaica, to any treaties arising under regional economic or other arrangements to which Jamaica is, or may become, party

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

Refugees

This Convention shall apply to refugees who are residing in the territory of either Party. It shall apply under the same conditions to members of their families, and to their survivors, with respect to the rights they derive from those refugees.

Article 5

Provisions for the Export of Benefit

(1) Subject to paragraph (2), Articles 13 to 24 and Article 30, a person who would be entitled to receive invalidity benefit under the legislation of Jamaica, or a retirement pension, widow's benefit, or any pension or benefit payable in respect of an industrial accident or industrial disease under the legislation of one Party, other than reduced earnings allowance payable under the legislation of the United Kingdom, if he were in the territory of that Party shall be entitled to receive that pension or benefit while he is in the territory of the other Party, as if he were in the territory of the former Party.

(2) Notwithstanding paragraph (1), a person who is entitled to receive a retirement pension or widow's benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man and who would be entitled to an increase in the rate of that pension or benefit if he were in Great Britain, Northern Ireland or the Isle of Man shall be entitled to receive any such increase prescribed on or after 1 October 1972 by that legislation if he is in Jamaica, but nothing in this Article shall confer entitlement to receive any such increases prescribed before that date by that legislation.

(3) 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.

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Part II

Provisions which determine the legislation applicable concerning Contribution Liability

Article 6

General Provisions

(1) Subject to paragraphs (2) to (12) and Articles 7 to 11, 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 Great Britain, Northern Ireland or the Isle of Man.

(6) Where a person is not gainfully employed, any liability for contributions shall be determined under the legislation of Guernsey if he is ordinarily resident in Guernsey, or under the legislation of Jersey if he is ordinarily resident in Jersey.

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

(10) A person who is entitled to receive invalidity benefit or injury benefit for any period under the legislation of Jamaica while he is in Jersey or 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 Jersey or Guernsey.

(11) A person who is entitled to receive widow's benefit under the legislation of Jersey shall be awarded credits only for periods during which that person is ordinarily resident in Jersey.

(12) A woman who is entitled to receive widow's benefit under the legislation of Guernsey while she is in Jamaica, 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

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

Article 7

Detached Workers

Subject to Articles 8 and 9, 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 8

Travelling Personnel

Subject to Article 9, 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 9

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 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.

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(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 10

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 11

Modification Provisions

The competent authorities of the Parties may agree to modify the application of Articles 6 to 10 in respect of particular persons or categories of persons, it being understood that such modification is an exceptional measure.

Part III

Special Provisions

Article 12

Conversion Formulae

(1) For the purpose of calculating entitlement to any benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with Articles 14 to 21, contribution periods or equivalent periods completed under the legislation of Jamaica before 6 April 1975 shall be treated as

if they had been contribution periods or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man, as the case may be.

(2) For the purpose of calculating entitlement to any benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with Articles 14 to 21, contribution periods completed as a self-employed person or as a non-employed person or equivalent periods completed under the legislation of Jamaica after 5 April 1975 shall be treated as if they had been contribution periods completed as a self-employed person or as a non-employed person or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man, as the case may be.

(3) Subject to paragraph (4), for the purpose of calculating an earnings factor for assessing entitlement to any benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with Articles 14 to 21, a person shall be treated for each week beginning in a relevant income tax year commencing after 5 April 1975, the whole or any part of which week is a contribution period completed as an employed person under the legislation of Jamaica, as having paid a contribution as an employed earner, or having earnings on which primary Class 1 contributions have been paid, on earnings equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement to additional pension under the legislation of Great Britain, Northern Ireland or the Isle of Man, no account shall be taken of any contribution period completed under the legislation of Jamaica.

(5) For the purposes of the calculation in Article 15(2) where—

- (a) in any income tax year commencing after 5 April 1975, an employed person has completed periods of insurance exclusively in Jamaica and the application of paragraph (3) results in that year being a qualifying year under the legislation of Great Britain, Northern Ireland or the Isle of Man, he shall be deemed to have been insured for fifty-two weeks in that year;
- (b) any income tax year commencing after 5 April 1975 does not count as a qualifying year under the legislation of Great Britain, Northern Ireland or the Isle of Man, any periods of insurance completed in that year shall be disregarded.

(6) For the purpose of calculating the appropriate contribution factor to establish entitlement to any benefit under the legislation of Jersey in accordance with Articles 13 to 24 and 26, a person shall be treated—

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

(7) For the purpose of calculating entitlement to any benefit under the legislation of Guernsey, in accordance with Articles 13 to 24 and 26, contribution periods or equivalent periods completed under the legislation of Jamaica shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of Guernsey.

(8) For the purpose of calculating entitlement to any benefit under the legislation of Jamaica, in accordance with Articles 13 to 26, each contribution period or equivalent period completed under the legislation of Great Britain, Northern Ireland or the Isle of Man before 6 April 1975, shall be treated as if it had been a contribution period or an equivalent period completed under the legislation of Jamaica.

(9) For the purpose of converting to an insurance period any earnings factor achieved in any income tax year commencing after 5 April 1975 under the legislation of Great Britain, Northern Ireland or the Isle of Man, the competent authority of Great Britain, Northern Ireland or the Isle of Man, shall divide the earnings factor achieved under its legislation by that year's lower earnings

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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 and shall be treated as if it had been an insurance period completed under the legislation of Jamaica.

(10) For the purpose of converting to an insurance period any contribution factor achieved under the legislation of Jersey, the competent authority of Jersey 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 and shall be treated as if it had been an insurance period completed under the legislation of Jamaica.

(11) For the purpose of converting insurance periods completed under the legislation of Guernsey, each contribution period or equivalent period completed under that legislation shall be treated as if it had been an insurance period completed under the legislation of Jamaica.

Part IV

Benefit Provisions

Section 1

Article 13

Invalidity Benefit

(1) In this Article “competent authority” means, in relation to Great Britain, the Secretary of State for Social Security.

(2) Where a person is entitled to receive invalidity benefit under the legislation of the United Kingdom, he shall be entitled to receive that benefit in the territory of Jamaica provided that, at the time of leaving the United Kingdom he was considered by the competent authority of the United Kingdom likely to be permanently incapacitated for work, and that he subsequently continues to satisfy that authority that he remains incapacitated for work.

(3) Where a person would be entitled to receive for the same incapacity and for the same period invalidity benefit under the legislation of both Parties, whether by virtue of this Convention or otherwise, he shall be entitled to receive only the invalidity benefit under the legislation of the Party in whose territory the incapacity began.

Section 2

Retirement Pension and Widow's Benefit

Article 14

General Provisions

(1) Subject to paragraphs (2) to (4), where a person is entitled to a basic retirement pension under the legislation of any part of either Party otherwise than by virtue of this Convention, that pension shall be payable and Article 15 shall not apply under that legislation.

(2) Notwithstanding paragraph (1), a person entitled to a Category B retirement pension under the legislation of Great Britain, Northern Ireland or the Isle of Man shall also be entitled to have any Category A retirement pension entitlement determined in accordance with Article 15.

(3) Notwithstanding paragraph (1), a married woman entitled to a retirement pension solely on her husband's contributions under the legislation of Jersey or Guernsey shall also be entitled to have any pension entitlement based entirely on her own insurance determined in accordance with Article 15. Such a married woman shall be entitled to receive only the benefit of her choice.

(4) Entitlement to a retirement pension in the circumstances referred to in paragraph (1) shall not preclude the competent authority of any part of either Party from taking into account, in accordance with paragraphs (4) to (6) of Article 15, insurance periods completed under the legislation of any part of either Party.

Article 15

Pro-Rata Pensions

(1) Subject to Articles 14 and 16 to 20, this Article shall apply to determine a person's entitlement to retirement pension, including any increase for dependants, under the legislation of any part of either Party.

(2) In accordance with Article 12, the competent authority of any part of either Party shall determine—

- (a) the amount of the theoretical pension which would be payable if all the relevant insurance periods completed under the legislation of both Parties had been completed under its own legislation;
- (b) the proportion of such theoretical pension which bears the same relation to the whole as the total of the insurance periods completed under the legislation of that part of either Party bears to the total of all the relevant insurance periods completed under the legislation of both Parties.

The proportionate amount thus calculated shall be the rate of pension actually payable by the competent authority.

(3) For the purpose of the calculation in paragraph (2), where all the insurance periods completed by any person under the legislation of—

- (i) Great Britain, Northern Ireland and the Isle of Man amount to less than one reckonable year or, as the case may be, one qualifying year, or relate only to periods before 6 April 1975 and in aggregate amount to less than fifty weeks, or
- (ii) Jersey amount to less than an annual contribution factor of 1.00, or
- (iii) Guernsey amount to less than fifty weeks,

those periods shall be treated in accordance with paragraph (4) or (5).

(4) Insurance periods under paragraph (3) shall be treated as follows—

- (a) as if they had been completed under the legislation of any part of the United Kingdom under which a pension is, or if such periods are taken into account, would be, payable, or
- (b) where a pension is, or would be, payable under the legislation of two or more parts of the United Kingdom as if they had been completed under the legislation of that part which, at the date on which entitlement first arose or arises, is paying, or would pay, the greater, or greatest amount.

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(5) Where no pension is, or would be, payable under paragraph (4), insurance periods under paragraph (3) shall be treated as if they had been completed under the legislation of Jamaica.

(6) Where all the insurance periods completed by a person under the legislation of Jamaica amount to less than fifty-two weeks, those periods shall be treated as if they had been completed under the legislation of the United Kingdom in accordance with paragraph (4).

(7) Any increase of benefit payable under the legislation of Great Britain, Northern Ireland or the Isle of Man because of deferred retirement or deferred entitlement, shall be based on the amount of the pro-rata pension calculated in accordance with this Article.

Article 16

Insurance Periods to be taken into account

For the purpose of applying Article 15 the competent authority of either Party shall take account only of insurance periods (completed under the legislation of the other Party) which would be taken into account for the determination of pensions under its legislation if they had been completed under its legislation, and shall, where appropriate, take into account in accordance with its legislation insurance periods completed by a spouse, or former spouse, as the case may be.

Article 17

Overlapping Periods

For the purpose of applying Article 15—

- (a) where a compulsory insurance period completed under the legislation of one Party coincides with a voluntary insurance period completed under the legislation of the other Party, only the compulsory insurance period shall be taken into account, provided that the amount of pension payable under the legislation of the latter Party under paragraph (2) of Article 15 shall be increased by the amount by which the pension payable under the legislation of that Party would have been increased if all voluntary contributions paid under that legislation had been taken into account;
- (b) where a contribution period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of the other Party, only the contribution period shall be taken into account;
- (c) where an equivalent period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of the other Party, account shall be taken only of the equivalent period completed under the legislation under which the insured person was last insured before the day when the periods in question began or, if he was never insured before that day, under the legislation under which he first became insured after the day when the periods in question ended;
- (d) where a compulsory contribution period completed under the legislation of one Party coincides with a compulsory contribution period completed under the legislation of the other Party, each Party shall take into account only the compulsory contribution period completed under its own legislation;
- (e) where a voluntary contribution period completed under the legislation of one Party coincides with a voluntary contribution period completed under the legislation of the other Party, each Party shall take into account only the voluntary contribution period completed under its own legislation;
- (f) where it is not possible to determine accurately the period of time in which certain insurance periods were completed under the legislation of one Party, such insurance periods shall be treated as if they did not overlap with insurance periods completed under

the legislation of the other Party and shall be taken into account to the best advantage of the beneficiary.

Article 18

Benefits to be excluded

(1) For the purpose of applying Article 15 no account shall be taken of the following benefits payable under the legislation of Great Britain, Northern Ireland or the Isle of Man—

- (a) any additional pension payable;
- (b) any graduated retirement benefit payable by virtue of any graduated contributions paid before 6 April 1975;
- (c) any invalidity allowance and incapacity age addition payable;

but any such benefit shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (2) of Article 15.

(2) For the purpose of applying Article 15 no account shall be taken of wage-related pension payable under the legislation of Jamaica, but that pension shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (2) of Article 15.

Article 19

Pre-Scheme Contributions

For the purpose of applying Articles 15 to 18 no account shall be taken under the legislation of Jamaica of any contribution paid or credited under the legislation of the United Kingdom for any period before 4 April 1966.

Article 20

Non-Simultaneous Entitlement

Where a person does not simultaneously satisfy the conditions for entitlement to a retirement pension under the legislation of both Parties, his entitlement from each Party shall be established as and when he satisfies the conditions applicable under the legislation of that Party, taking account, where appropriate, of Article 15.

Article 21

Widow's Benefit

(1) Articles 14 to 20 shall also apply, with such modifications as the differing nature of the benefits shall require, to widow's benefit.

(2) Where widow's benefit would be payable under the legislation of one Party if a child were in the territory of that Party, it shall be payable while the child is in the territory of the other Party.

Section 3

Benefits for Industrial Accidents and Industrial Diseases

Article 22

General Provisions

(1) Where a person is employed in the territory of one Party and the legislation of the other Party applies to him in accordance with any of the provisions of Articles 7 to 11, he shall be treated under the legislation of the latter Party for the purpose of any claim to benefit in respect of an industrial

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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 Party. Where benefit would be payable in respect of that claim if the person were in the territory of the latter Party, it shall be payable while he is in the territory of the former Party.

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

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

(3) Where a seasonal worker who is entitled to industrial injury benefit under the legislation of Guernsey goes to Jamaica, he shall be entitled to continue to receive such benefit for a period of not more than 13 weeks from the date of departure from Guernsey.

(4) Where because of a death resulting from an industrial accident or an industrial disease, a benefit would be payable under the legislation of one Party in respect of a child if that child were in the territory of that Party, that benefit shall be payable while the child is in the territory of the other Party.

Article 23

Dual Attribution and Aggravation of an Industrial Disease

(1) Subject to paragraph (2), where a person contracts an industrial disease, after having been employed in the territories of both Parties in an occupation to which, under the legislation of both Parties, the disease may be attributed and he would be entitled to receive benefit in respect of that disease under the legislation of both Parties, whether by virtue of this Convention or otherwise, the benefit shall be payable only under the legislation of the Party in whose territory he was last employed in that occupation before the disease was diagnosed.

(2) Where a person has suffered an aggravation of an industrial disease for which benefit has been paid in accordance with paragraph (1), the following provisions shall apply—

- (a) if the person has not had further employment in an occupation to which the disease or the aggravation may be attributed, or has had such employment only in the territory of the Party 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 Party 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 Party in an occupation to which, under the legislation of that Party, the aggravation may be attributed, the competent authority of that Party shall be liable to pay benefit only in respect of the aggravation as determined under the legislation of that Party.

Article 24

Dual Entitlement

A person shall not be entitled, whether by virtue of this Convention or otherwise, to receive sickness benefit, including industrial injury benefit under the legislation of Guernsey, invalidity benefit or maternity allowance under the legislation of the United Kingdom for any period during which he is entitled to benefit, other than a pension, under the legislation of the other Party in respect of incapacity for work which results from an industrial accident or an industrial disease.

Section 4

Family Benefits

Article 25

Orphan's Benefit

(1) In this Article "Party" means—

(i) Great Britain, Northern Ireland, the Isle of Man or Guernsey, or

(ii) Jamaica,

as the case may be.

(2) For the purpose of any claim to orphan's benefit under the legislation of one Party any period of presence or insurance completed under the legislation of, or in the territory of, the other Party, as the case may be, shall be treated as if it were a period of presence or insurance completed under the legislation of, or in the territory of, the former Party.

(3) For the purpose of any claim to orphan's benefit under the legislation of Guernsey, a person who has completed an insurance period under the legislation of Jamaica, shall be treated as an insured person under the legislation of Guernsey.

(4) Where orphan's benefit would be payable to a person under the legislation of one Party if that person, or the orphan for whom the benefit is claimed, were ordinarily resident in the territory of that Party, it shall be paid while that person, or the orphan, is in the territory of the other Party.

(5) Where, but for this paragraph, a person would be entitled to receive orphan's benefit under the legislation of both Parties 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 Party in whose territory the orphan is ordinarily resident.

Section 5

Article 26

Death Grant under the Legislation of Jersey, Guernsey or Jamaica

(1) In this Article "Party" means—

(i) Jersey or Guernsey, or

(ii) Jamaica,

as the case may be.

(2) For the purpose of any claim to death grant under the legislation of either Party any insurance period completed under the legislation of one Party shall be treated in accordance with Article 12 as if it were an insurance period completed under the legislation of the other Party.

(3) Where a person dies in the territory of either Party his death shall be treated, for the purpose of any claim to death grant under the legislation of one Party, as if it had occurred in the territory of that Party.

(4) Where there would be entitlement to death grant under the legislation of both Parties, whether by virtue of this Convention or otherwise—

(a) the grant shall be payable only under the legislation of the Party in whose territory the death occurs; or

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- (b) if the death does not occur in the territory of either Party, the grant shall be payable only under the legislation of the Party under whose legislation the person on whose insurance the right to the grant is determined was last insured before the death.

Part V

Miscellaneous Provisions

Article 27

Recovery of Advance Payments and Overpayments of Benefit

(1) Where a competent authority of one Party has made a payment of any benefit to a person for any period, or event, in advance of the period, or event, to which it relates or has paid him any benefit for a period, or event, whether by virtue of this Convention or otherwise, and the competent authority of the other Party afterwards decides that the person is entitled to benefit for that period, or event, under its legislation, the competent authority of the latter Party, at the request of the competent authority of the former Party, shall deduct from the benefit due for that period, or event, under its legislation any overpayment which, by virtue of this Convention, results from the advance payment of benefit, or from the benefit paid, by the competent authority of the former Party and shall, where appropriate, transmit this sum to the competent authority of the former Party.

(2) Where a person has received social assistance under the legislation of Great Britain, Northern Ireland or the Isle of Man for a period for which that person subsequently becomes entitled to any benefit under the legislation of Jamaica, the competent authority of Jamaica, at the request of and on behalf of the competent authority of Great Britain, Northern Ireland or the Isle of Man, 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 Jamaica been paid before the amount of social assistance was determined, and shall transmit the amount withheld to the competent authority of Great Britain, Northern Ireland or the Isle of Man.

Article 28

Arrangements for Administration, Review and Mutual Assistance

(1) The competent authorities of the two Parties shall—

- (i) establish the administrative measures necessary for the application of this Convention, and
- (ii) establish the institutional mechanism for carrying out periodic reviews to ensure the correct application and operation of this Convention and its financial integrity, and
- (iii) agree the regularity and form of such reviews.

(2) The competent authorities of the two Parties shall transmit to each other, as soon as practicable, all relevant 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 this Convention.

(3) The competent authorities of the two Parties shall establish liaison offices for the purpose of facilitating the implementation of this Convention.

(4) The competent authorities of the two Parties shall assist one another on any matter relating to the application of this Convention as if the matter were one affecting the application of their own legislation. This assistance shall be free of charge.

(5) Where any benefit is payable under the legislation of one Party to a person in the territory of the other Party, arrangements for the payment may be made by the competent authority of the

latter Party, at the request of the competent authority of the former Party, and the former Party shall reimburse the latter Party.

(6) Where a person who is in the territory of one Party has claimed, or is receiving, benefit under the legislation of the other Party and a medical examination is necessary, the competent authority of the former Party, at the request of the competent authority of the latter Party, shall arrange for this examination. The cost of such examination shall be met by the competent authority of the former Party.

(7) A medical board appointed by the competent authority of Jamaica, at the request of the competent authority of Guernsey, shall be treated as a medical board for determination of the disablement questions under the legislation of Guernsey.

(8) Certificates or other documents which, under the legislation of either Party are exempt, wholly or partly, from any taxes, legal dues, consular fees or administrative charges, shall be exempt from all such dues, fees or charges when submitted by the competent authorities of either Party, pursuant to national legislation or this Convention.

(9) 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.

(10) Any information about an individual which is sent in accordance with, and for the purposes of, this Convention to a Party by the other Party is confidential and shall be used only for the purpose of implementing this Convention and the legislation to which this Convention applies. Such information shall be governed by the laws applicable in either Party for the protection of privacy and confidentiality of personal data.

Article 29

Submission of Claim or Appeal

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

(2) Any claim to benefit submitted under the legislation of one Party shall also be deemed to be a claim to the corresponding benefit under the legislation of the other Party in so far as this corresponding benefit is payable in accordance with this Convention.

Article 30

Currency and Method of Payment

(1) Payment of any benefit in accordance with this Convention may be made in the currency of the Party whose competent authority makes the payment and any such payment shall constitute a full discharge of the obligation in respect of which payment has been made.

(2) Where the competent authority of one Party has made a payment of benefit on behalf of the competent authority of the other Party in accordance with Article 28(5), any reimbursement of the amounts paid by the competent authority of the former Party shall be in the currency of the latter Party.

(3) Where a person in the territory of one Party is receiving benefit under the legislation of the other Party, it shall be payable by whatever method the competent authority of the latter Party deems appropriate.

Article 31

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Resolution of Disputes

(1) The competent authorities of the Parties to this Convention shall make all reasonable efforts to resolve through agreement between them any dispute about its interpretation or application.

(2) If any dispute cannot be resolved as in paragraph (1) it shall be submitted, at the request of the competent authority of either Party, to an arbitration tribunal which shall be constituted in the following manner—

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

(3) The decision of the arbitration tribunal, shall be binding on both Parties. The decision shall be adopted by a majority vote. The arbitration tribunal shall determine its own rules of procedure.

(4) The costs of the tribunal shall be borne in equal parts by the Parties. The tribunal may, however, in its decisions direct that a higher proportion of costs shall be borne by one of the Parties and this award shall be binding on both Parties.

Part VI

Transitional and Final Provisions

Article 32

Prior Acquisition of Rights — Old Agreement replaced by New Convention

(1) Upon the entry into force of this Convention the former Agreement shall terminate and shall be replaced by this Convention.

(2) Any right to benefit acquired by a person in accordance with the former Agreement shall be maintained. For the purposes of this paragraph “any right to benefit acquired” includes any right which a person would have had but for his failure to claim timeously where a later claim is allowed.

(3) Any rights in course of acquisition under the former Agreement at the date of entry into force of this Convention shall be determined under this Convention.

(4) Where, from the date of entry into force of this Convention, any claim to benefit has not been determined and entitlement arises before that date, the claim shall be determined under the former Agreement and shall be determined afresh under this Convention from its date of entry into force. The rate determined under this Convention shall be awarded from the date of its entry into force if this is more favourable than the rate determined under the former Agreement.

(5) Benefit, other than lump sum payments, shall be payable in accordance with this Convention in respect of events which happened before the date of its entry into force, except that 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 an industrial disease if it would not have been so treated under any legislation, or Agreement, having effect at the time of its occurrence or development. For the purpose of determining claims under this Convention, account shall be

taken, where appropriate, of insurance periods and periods of residence, employment or presence, completed before the date of its entry into force.

(6) Paragraph (5) shall not confer any right to receive payment of benefit for any period before the date of entry into force of this Convention.

(7) For the purposes of paragraph (2) and for applying the first sentence of paragraph (5)—

- (a) any right to benefit may, at the request of the person concerned, be determined afresh under this Convention with effect from the date of its entry into force provided that the request has been made within two years of that date and, if applicable, benefit awarded at the higher rate from that date;
- (b) 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 of benefit, and the payment of any arrears, shall be made in accordance with the legislation concerned.

(8) No provision of this Convention shall diminish any rights or benefits which a person has properly acquired under the legislation of any part of either Party before the date of entry into force of this Convention.

Article 33

Entry into Force

The Convention shall enter into force on a date to be specified in Notes exchanged by the Parties through the Diplomatic Channel notifying each other that all constitutional procedures as are necessary to give effect to this Convention have been finalised.

Article 34

Life of the Convention

This Convention shall remain in force for an indefinite period. Either Party may denounce it at any time by giving six months' notice in writing to the other Party.

Article 35

Rights on Termination of this Convention not replaced by another

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

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

Done in duplicate at London this 12th day of November 1996.

For the Government of the United Kingdom of Jamaica:

Nic Bonsor

For the Government of Great Britain and Northern Ireland:

Portia Simpson