

SCHEDULE 1

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

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

Status: This is the original version (as it was originally made).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

(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.

(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

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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 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.

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(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
- (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.