

## SCHEDULE

### CONVENTION ON SOCIAL SECURITY BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE KINGDOM OF THE NETHERLANDS

## PART I

### GENERAL PROVISIONS

#### ARTICLE 1 *Definitions*

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

(a) Countries

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

“Jersey” means the Island of Jersey;

“Netherlands” means the Kingdom of the Netherlands;

“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 the Netherlands, the territory in Europe.

(b) General definitions

“competent authority” means—

(i) in relation to the territory of the United Kingdom, the Department for Work and Pensions for Great Britain, the Commissioners of the Inland Revenue, or their authorized representative, the Department for Social Development for Northern Ireland, the Department of Health and Social Security of the Isle of Man, the Employment and Social Security Committee of the States of Jersey or the Social Security Department of the States of Guernsey as the case may require, and

(ii) in relation to the Netherlands, the Minister for Social Affairs and Employment;

“competent institution” means, in relation to the Netherlands, any institution or authority responsible for administering all or part of the legislation specified in Article 3(1)(b);

“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;

“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 concerned;

“employed person” means—

(i) except for the purposes of Article 25, a person who, under 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 Article 25, a person who, under the legislation of Great Britain, Northern Ireland or the Isle of Man, comes within the definition of an employed earner or of an employed person or is treated as such, or an employed or self-employed person under the legislation of Jersey or Guernsey, and the words “person is employed” shall be construed accordingly;

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

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

“former Convention” means the Convention on Social Security between the Kingdom of the Netherlands and the United Kingdom of 11 August 1954;

“gainfully employed” means employed or self-employed;

“Implementing Regulation” means the Regulation (EEC) No 574/72 of the Council laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, including its application to the European Economic Area, and includes amendments and adaptations from time to time applicable thereto;

“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, in relation to the United Kingdom, a contribution period or an equivalent period and, in relation to the Netherlands, an insurance period completed under the legislation of the Netherlands;

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

“legislation” means, in relation to a Party, such of the legislation specified in Article 3 as applies in the territory of a Party, or in any part of the territory of that Party;

“Party” means, unless otherwise defined in the Convention, the United Kingdom or the Netherlands;

“pension”, “allowance” or “benefit” includes any increases of, or any additional amount payable with, a pension, allowance or benefit respectively, by virtue of the legislation as defined in Article 3;

“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 or 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 or 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 as referred to in Article 1 of the Convention on the Status of Refugees, done at Geneva on 28 July 1951 and the Protocol relating to the Status of Refugees, done at New York on 31 January 1967;

“Regulation EEC 1408/71” means the Regulation (EEC) No 1408/71 of the Council on the application of social security schemes to employed persons, to self-employed persons and

to members of their families moving within the Community, including its application to the European Economic Area, and includes amendments and adaptations from time to time applicable thereto;

“seasonal worker” means a person subject to the legislation of Jersey or Guernsey who goes to the Netherlands after carrying out in the former 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 that 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;

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

“stateless person” means a person as referred to in Article 1 of the Convention relating to the Status of Stateless Persons, done at New York on 28 September 1954;

(c) Old Age, Death, Survivors and Invalidity Pensions or Benefits

“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;

“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, or for certain persons whose civil partnerships have ended by dissolution or by the death of a civil partner, a basic retirement pension based on the former spouse’s or civil partner’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 person or civil partner on the spouse’s or civil partner’s contributions or, for a widow, widower or surviving civil partner, either, or both, a basic retirement pension and an additional pension based on the late spouse’s or civil partner’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 Jersey or Guernsey to a married woman by virtue of her husband’s contributions while he is alive;

“survivor’s benefit” means—

- (i) bereavement payment, bereavement allowance, and widowed parent’s allowance payable under the legislation of Great Britain, Northern Ireland, or the Isle of Man, or
- (ii) 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
- (iii) survivor’s allowance, and survivor’s pension payable under the legislation of Jersey, or
- (iv) bereavement payment, widowed parent’s allowance and bereavement allowance payable under the legislation of Guernsey, or
- (v) widow’s or widower’s pension payable under the legislation of the Netherlands.

“invalidity benefit” means—

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- (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) invalidity benefit, long term incapacity allowance or invalidity pension payable under the legislation of Jersey, or
- (iv) invalidity pension payable under the legislation of the Netherlands;

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

- (d) Employment accidents and diseases

“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, 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 Jersey or Guernsey.

- (e) Sickness insurance and maternity benefits

“maternity allowance” means maternity allowance payable under the legislation of either Party;

“sickness benefit” means—

- (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 and industrial injury benefit payable under the legislation of Guernsey, or
- (iii) short term incapacity allowance payable under the legislation of Jersey, or
- (iv) sickness benefit payable under the legislation of the Netherlands.

- (f) Unemployment

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

- (g) Child benefits

“child benefits” means child benefit or family allowance payable under the legislation of either Party.

- (h) Social assistance

“social assistance” means income support and income-based jobseeker’s allowance payable under the legislation of Great Britain, Northern Ireland or the Isle of Man and social assistance payable under the legislation of the Netherlands.

(2) Other words and expressions, which are used in this Convention, have the meaning 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 *Persons covered*

Subject to Article 33, this Convention shall apply:

- (a) as regards relations between Great Britain, Northern Ireland and the Netherlands, only to persons to whom, in relation to a specific event or circumstance, Regulation EEC 1408/71 and the Implementing Regulation do not apply, or do not become applicable, and who are, or have been subject to the legislation of one or both Parties, to members of their families and to their survivors, and
- (b) as regards relations between Jersey, Guernsey, the Isle of Man and the Netherlands, to persons who are, or have been, subject to the legislation of one or both Parties, to members of their families and to their survivors.

**ARTICLE 3 *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, the Jobseekers Act 1995, the Social Security Act 1998, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 and the Welfare Reform and Pensions Act 1999;
  - (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, the Jobseekers (Northern Ireland) Order 1995 the Social Security (Northern Ireland) Order 1998, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and the Welfare Reform and Pensions (Northern Ireland) Order 1999;
  - (iii) 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, the Jobseekers Act 1995, the Social Security Act 1998 and the Welfare Reform and Pensions Act 1999 (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 2000 (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 the Netherlands, to:
  - (i) the legislation concerning sickness insurance providing for benefits in cash, including maternity;
  - (ii) the legislation concerning the liability of an employer in respect of sickness benefits;
  - (iii) the legislation concerning old age, invalidity and survivor's insurance;
  - (iv) the legislation concerning unemployment insurance;
  - (v) the legislation concerning child benefits;

and for the application of Articles 8 and 9 also the legislation on sickness insurance providing for benefits in kind.

(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).

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(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 affect rights and obligations created by legislation on social security adopted on the basis of the Treaty establishing the European Economic Community done at Rome on 25 March 1957, as amended, the Agreement on establishing the European Economic Area done at Oporto on 2 May 1992 and made between the European Community, its Member States and the Member States of the European Free Trade Association, and any amendments or modifications thereto, or apply 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 provision of any other convention which that Party has concluded with a third party.

#### **ARTICLE 4***Equal treatment*

A person to whom this Convention applies, while he is in the territory of one Party, shall 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 5***Refugees and stateless persons*

This Convention shall apply to refugees and stateless persons 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 or stateless persons.

#### **ARTICLE 6***Provisions for the export of benefit*

(1) Subject to Articles 16, 18 to 25 and Article 30 a person who would be entitled to receive a retirement pension, survivor's benefit, invalidity benefit or any pension or benefit payable in respect of an industrial accident or industrial disease under the legislation of one Party 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) Subject to Article 15(3) and (5), 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 the Netherlands 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 the Netherlands, provided that he continues to satisfy the insurance authority of the former Party that he remains incapable of work.

(3) Subject to Article 15(3) to (5), a person who continues to be entitled to receive sickness benefit under the legislation of Jersey while he is in the Netherlands may, after having received, or been deemed to have received, 364 days sickness benefit, become entitled to receive long term incapacity allowance under the legislation of Jersey provided that he continues to satisfy the insurance authority of Jersey of a loss of physical or mental faculty.

(4) Subject to Article 15(3) to (5), a person who continues to be entitled to receive sickness benefit or industrial injury benefit under the legislation of Guernsey while he is in the Netherlands 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 the Netherlands, provided that he continues to satisfy the insurance authority of Guernsey that he remains incapable of work.

(5) 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.

(6) Paragraph 1 does not apply to the Netherlands' Supplementary Benefits Act of 6 November 1987 or the Netherlands' Disablement Assistance Act for Handicapped Young Persons of 24 April 1997.