

SCHEDULE

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

PART IV

BENEFIT PROVISIONS

SECTION 2

RETIREMENT PENSION AND SURVIVOR'S BENEFIT

ARTICLE 18 *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 19 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 19.

(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 19. 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 (3) to (6) of Article 19 insurance periods completed under the legislation of any part of either Party.

(5) By applying paragraph (1) the Netherlands competent institution shall determine the amount of the old age pension directly and exclusively on the basis of the insurance periods completed under the Netherlands General Old Age Pensions Act. Notwithstanding this paragraph, paragraph (4) will apply where appropriate.

(6) Subject to paragraph (7), periods before 1 January 1957 during which a person resided in the territory of the Netherlands after reaching the age of fifteen years or during which, while residing in the United Kingdom, the person was employed in the territory of the Netherlands shall also be considered as insurance periods if the person does not satisfy the conditions of the Netherlands legislation permitting such periods to be treated for that person as insurance periods.

(7) The periods referred to in paragraph (6) shall be taken into consideration in the calculation of the old-age pension only if the person concerned has been insured within the meaning of Article 6 of the Netherlands General Old Age Pension Act and the person has resided for at least six years in the territory of one or both Parties after reaching the age of fifty-nine years and only while the person is residing in the territory of either Party. However, these periods shall not be taken into consideration if they coincide with periods taken into consideration for the calculation of an old age pension under the legislation of a country other than the Netherlands.

ARTICLE 19 *Pro-rata pensions*

(1) Subject to Articles 18 and 20 to 23, 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 14, the competent authority or the competent institution of any part of either Party shall determine:

Status: This is the original version (as it was originally made).

- (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 or the competent institution.

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

- (a) 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
- (b) Jersey amount to less than an annual contribution factor of 1.00, or
- (c) 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) and (6) 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 the Netherlands.

(6) Where all the insurance periods completed by a person under the legislation of the Netherlands amount to less than one year 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 20 *Insurance periods to be taken into account*

For the purpose of applying Article 19 the competent authority of the United Kingdom shall take account only of insurance periods completed under the legislation of either Party which would be taken into account for the determination of pensions under the legislation of the United Kingdom 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 civil partner, or former spouse or former civil partner, as the case may be.

ARTICLE 21 *Overlapping periods*

For the purpose of applying Article 19:

- (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 Article 19(2) 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 22 *Benefits to be excluded*

For the purpose of applying Article 19 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 or incapacity age addition payable;

but any such benefit shall be added to the amount of any benefit payable under that legislation in accordance with Article 19(2).

ARTICLE 23 *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 19.

ARTICLE 24 *Survivor's benefit*

(1) Articles 18 to 23 shall also apply, with such modifications as the differing nature of the benefits shall require, to survivor's benefit.

(2) Where survivor'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.