

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 1

PROVISIONS FOR SICKNESS, MATERNITY, INVALIDITY AND UNEMPLOYMENT

ARTICLE 15 *Sickness benefit and maternity allowance*

(1) Where a person has, since his last arrival in the territory of the United Kingdom, completed a contribution period under the legislation of that Party, then for the purpose of any claim to sickness benefit or maternity allowance made under the legislation of that Party, any insurance period completed under the legislation of the Netherlands shall be treated in accordance with Article 14 as if it were an insurance period completed under the legislation of the United Kingdom.

(2) 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 13, he shall be treated under that legislation for the purpose of any claim to sickness benefit or maternity allowance as if he were in the territory of the latter Party.

(3) Subject to paragraphs (4) and (5) and Article 30, where a person would be entitled to receive sickness benefit or maternity allowance under the legislation of the United Kingdom if he were in the territory of that Party, he shall be entitled to receive that sickness benefit or maternity allowance while he is in the territory of the Netherlands if:

- (a) his condition necessitates immediate treatment during a stay in the territory of the Netherlands and, within six days of commencement of incapacity for work or such longer period as the competent authority may allow, he submits to the competent authority of the United Kingdom a claim to benefit and documentary evidence of incapacity for work; or
- (b) having claimed and become entitled to sickness benefit or maternity allowance under the legislation of the United Kingdom he is authorised by the competent authority of that Party to return to the territory of the Netherlands where he resides, or to transfer his residence to the territory of the Netherlands; or
- (c) having claimed and become entitled to sickness benefit or maternity allowance under the legislation of the United Kingdom, he is authorised by the competent authority of that Party to go to the territory of the Netherlands to receive there treatment for his condition.

The authorisation required in accordance with sub-paragraph (b) may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health, or to the receipt of medical treatment.

(4) Where a seasonal worker, who is entitled to sickness benefit under the legislation of Jersey or Guernsey, goes to the Netherlands, he shall be entitled to continue to receive such benefit for a period of not more than thirteen weeks from the date of his departure from Jersey or Guernsey, as the case may be.

(5) Where a person who is resident in the territory of one Party would be entitled to receive sickness benefit or maternity allowance under the legislation of the other Party if he were in the territory of that Party, he shall be entitled to receive that sickness benefit or maternity allowance while he is in the territory of the former Party provided that, since his last arrival in the territory of that Party, he has not completed a contribution period under its legislation.

(6) Where a person would be entitled to receive sickness benefit under the legislation of the Netherlands if he were in the territory of that Party, he shall be entitled to receive that sickness benefit while he is in the territory of the United Kingdom.

(7) Where, but for this paragraph, a person would be entitled to receive, for the same period, whether by virtue of this Convention, or otherwise, sickness benefit under the legislation of both Parties, including industrial injury benefit under the legislation of Guernsey, or maternity allowance under the legislation of the United Kingdom, that benefit, allowance or payment shall be granted only under the legislation under which the person was last insured before entitlement arose.

ARTICLE 16 *Invalidity benefit*

(1) Where a person has been subject to the legislation of both Parties, the competent authority or the competent institution in the territory of the Party whose legislation was applicable when incapacity for work followed by invalidity began shall determine, in accordance with its legislation, whether the person concerned satisfied the conditions for entitlement to invalidity benefit taking account, where appropriate, of any insurance period which that person has completed under the legislation of the other Party as if it were an insurance period completed under its legislation.

(2) 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, or invalidity benefit under the legislation of one Party and sickness benefit under the legislation of the other Party, including industrial injury benefit under the legislation of Guernsey, whether by virtue of this Convention or otherwise, he shall be entitled to receive only the invalidity benefit, sickness benefit, or industrial injury benefit, as the case may be, under the legislation of the Party in whose territory the incapacity began.

(3) Where a person is entitled to incapacity pension under the legislation of Jersey, only contribution periods completed, or deemed to be completed, under the legislation of Jersey shall be taken into consideration in the calculation of the rate of incapacity pension.

ARTICLE 17 *Unemployment benefit*

(1) In this Article “Party” means Great Britain, Northern Ireland, the Isle of Man, Guernsey or the Netherlands, as the case may be.

(2) Subject to paragraphs (4) to (8), where a person has, since his last arrival in the territory of one Party, completed a contribution period under the legislation of that Party, then for the purpose of any claim to unemployment benefit made under the legislation of that Party, any insurance period, or period of employment, completed under the legislation of the other Party shall be treated in accordance with Article 14 as if it were an insurance period, or period of employment, completed under the legislation of the former Party, in so far as those periods do not coincide.

(3) Periods of employment in the Netherlands shall be taken into account for the purpose of determining whether a person who has previously exhausted his right to unemployment benefit under the legislation of Guernsey requalifies for it.

(4) Where a person is entitled to unemployment benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with paragraph (2), any unemployment benefit paid to that person for any period under the legislation of the Netherlands during the last six months before the day for which his claim is made shall be treated, for the purpose of determining the duration of the payment, as if it were unemployment benefit paid for the same period under the legislation of Great Britain, Northern Ireland or the Isle of Man, as the case may be.

(5) Where a person is entitled to unemployment benefit under the legislation of Guernsey in accordance with paragraph (2), any unemployment benefit paid to that person for any period under the legislation of the Netherlands during the last twelve months before the day for which his claim is made shall be treated, for the purpose of determining the duration of the payment, as if it were unemployment benefit paid for the same period under the legislation of Guernsey.

(6) Where a person is entitled to unemployment benefit under the legislation of the Netherlands in accordance with paragraph (2), any unemployment benefit paid to that person for any period under

the legislation of any other Party during the last twelve months before the day for which his claim is made shall be treated, for the purpose of determining the duration of the payment, as if it were unemployment benefit paid for the same period under the legislation of the Netherlands.

(7) Periods of insurance or periods of employment completed under the legislation of Jersey shall not be taken into account for the purpose of determining entitlement to unemployment benefit under the legislation of the Netherlands.

(8) This Article shall not apply to a person who claims unemployment benefit under the legislation of Guernsey and who has not paid twenty-six contributions as an employed person under the legislation of Guernsey.

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.

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

(2) In accordance with Article 14, the competent authority or the competent institution 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 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.

SECTION 3

BENEFITS FOR INDUSTRIAL ACCIDENTS AND INDUSTRIAL DISEASES

ARTICLE 25 *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 8 to 13, 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 the Netherlands, he shall be entitled to continue to receive such benefit for a period not more than thirteen 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.

SECTION 4

ARTICLE 26 *Child benefits*

(1) A person covered under the legislation on child benefits of the Netherlands shall be entitled to child benefits under its legislation even if the beneficiary or the child is in the territory of the United Kingdom.

(2) Where, but for this paragraph, child benefit would be payable under the legislation of both Parties for the same period in respect of the same child, whether by virtue of this Convention or otherwise child benefit shall be paid only under the legislation of the Party in whose territory that child is ordinarily resident.