

## SCHEDULE

Article 2

### AGREEMENT RELATING TO STATE PENSION AND RETIREMENT PENSION BETWEEN THE SECRETARY OF STATE FOR WORK AND PENSIONS AND THE DEPARTMENT FOR SOCIAL DEVELOPMENT IN NORTHERN IRELAND OF THE ONE PART, AND THE MINISTER FOR THE TREASURY OF THE ISLE OF MAN OF THE OTHER PART

#### Interpretation

1.—(1) In this Agreement—

“the 1977 Agreement” means the agreement contained in Schedule 1 to the Social Security (Isle of Man) Order (Northern Ireland) 1977<sup>(1)</sup>;

“the Isle of Man Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 (of Parliament) as it applies in the Isle of Man from time to time by virtue of the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 (S.D. 505/94);

“Party” means the United Kingdom or the Isle of Man;

“the Pensions Acts” means in relation to the United Kingdom, Part 1 (state pension) of the Pensions Act 2014<sup>(2)</sup> and Part 1 (state pension) of the Pensions Act (Northern Ireland) 2015;

“territory” means in relation to the United Kingdom, England, Scotland, Wales and Northern Ireland, and in relation to the Isle of Man, the Isle of Man.

(2) Unless the context otherwise requires, in the application of this Agreement to a territory, expressions in this Agreement shall have the same meaning as in the United Kingdom or Isle of Man Acts referred to in this Agreement.

(3) The rules for the construction of Acts of Parliament and instruments contained in the Interpretation Act 1978<sup>(3)</sup> shall apply for the purposes of the interpretation of this Agreement as they apply for the purposes of the interpretation of an Act of Parliament or instrument.

#### Application of Agreement

2. This Agreement shall apply to a person for the purposes of claims for and determining entitlement to a state pension under the Pensions Acts.

3. The 1977 Agreement shall not apply and this Agreement shall apply to a person for the purposes of claims for and determining entitlement to a retirement pension under the Isle of Man Contributions and Benefits Act of a person who reaches pensionable age on or after 6th April 2016.

4. The 1977 Agreement shall not apply and this Agreement shall apply to a person who reaches pensionable age before 6th April 2016 and whose spouse or civil partner reaches pensionable age on or after that date, for the purposes of claims for and determining entitlement to—

(a) a Category A retirement pension by virtue of section 48 (use of former spouse’s contributions) of the Social Security Contributions and Benefits Act 1992 or section 48<sup>(4)</sup> (use of former spouse’s contributions) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

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(1) [S.R. 1977 No. 378](#). This S.R. was amended by S.R.s 1989 Nos. [137](#) and [427](#) and modified by [S.R. 1988 No. 120](#) and [S.R. 1996 No. 327](#).

(2) [2014 c.19](#).

(3) [1978 c.30](#).

(4) Section 48 was amended by paragraph 78 of Schedule 24 to the Civil Partnership Act [2004 \(c.33\)](#).

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

- (b) a Category B retirement pension under Part 2 (contributory benefits) of the Social Security Contributions and Benefits Act 1992 or Part 2 (contributory benefits) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (c) a Category A retirement pension by virtue of section 48 of the Isle of Man Contributions and Benefits Act;
- (d) a Category B retirement pension under Part 2 of the Isle of Man Contributions and Benefits Act.

### **Provisions applying to the United Kingdom**

5. Subject to Articles 7 and 8, in the case of a person to whom Article 2 applies—
- (a) for the purpose of determining only whether a person has at least the minimum number of qualifying years for a state pension to be payable under section 2 or 4 of the Pensions Acts, any tax year for which a person’s earnings factor is sufficient to satisfy paragraph 5A(2)(b) of Schedule 3 to the Isle of Man Contributions and Benefits Act<sup>(5)</sup> shall be taken into account in the United Kingdom; and
  - (b) the rate at which state pension is payable to a person under section 2 or 4 of the Pensions Acts is to be determined by reference only to the number of qualifying years under section 2 or 4 of those Acts.

### **Provisions applying to the United Kingdom and the Isle of Man**

6. Subject to Articles 7 and 8, in the case of a person to whom Article 3 or 4 applies, for the purposes of claims for and determining entitlement to a retirement pension where a person’s, or where applicable their spouse or civil partner’s, contributions were last recorded on the National Insurance system of—

- (a) the Isle of Man in respect of a tax year, that person’s contributions in respect of that tax year are to be treated as paid or credited under the Isle of Man Contributions and Benefits Act;
- (b) the United Kingdom in respect of a tax year, that person’s contributions in respect of that tax year are to be treated as paid or credited under Part 1 (contributions) of the Social Security Contributions and Benefits Act 1992 or Part 1 (contributions) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

7. In the case of a person to whom this Agreement applies—

- (a) where that person’s, or where applicable their spouse or civil partner’s, contributions were last recorded on the National Insurance system of the Isle of Man in respect of the tax year 1977-1978, any contributions that have been paid by, or have been credited to, that person or their spouse or civil partner (including graduated contributions and payments in place of graduated contributions) for any tax year before that tax year shall be treated as paid to the National Insurance system of the Isle of Man under Part 1 of the National Insurance (Isle of Man) Act 1948<sup>(6)</sup>, the National Insurance (Isle of Man) Act 1971<sup>(7)</sup> and Part 1 of the Isle of Man Contributions and Benefits Act; and
- (b) that person, or where applicable their spouse or civil partner, shall not be treated as having paid or been credited with contributions (including graduated contributions and payments in place of graduated contributions) in the United Kingdom under—
  - (i) Part 1 of the National Insurance Act 1965<sup>(8)</sup>;

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<sup>(5)</sup> Paragraph 5A was inserted by section 1(3) of the Pensions Act 2007 (c.22) and amended by S.I. 2014/3229.

<sup>(6)</sup> Vol. XVII of the Revised Statutes of the Isle of Man, p.197.

<sup>(7)</sup> Isle of Man 20 & 21 Eliz. II c.29.

<sup>(8)</sup> 1965 c.51. Part 1 was repealed by the Social Security Act 1973 (c.38) and by the Social Security (Consequential Provisions) Act 1975 (c.18).

- (ii) Part 1 of the National Insurance Act (Northern Ireland) 1966<sup>(9)</sup>;
  - (iii) Part 1 of the Social Security Contributions and Benefits Act 1992; or
  - (iv) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, in respect of all tax years before the tax year 1977-1978.
8. In the case of a person to whom this Agreement applies—
- (a) where that person's, or where applicable their spouse or civil partner's, contributions were last recorded on the National Insurance system of the United Kingdom in respect of the tax year 1977-1978, any contributions that have been paid by, or have been credited to, that person or their spouse or civil partner (including graduated contributions and payments in place of graduated contributions) for any tax year before that tax year shall be treated as paid to the National Insurance system of the United Kingdom under—
    - (i) Part 1 of the National Insurance Act 1965;
    - (ii) Part 1 of the National Insurance Act (Northern Ireland) 1966;
    - (iii) Part 1 of the Social Security Contributions and Benefits Act 1992; or
    - (iv) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
  - (b) that person, or where applicable their spouse or civil partner, shall not be treated as having paid or been credited with contributions (including graduated contributions and payments in place of graduated contributions) in the Isle of Man under Part 1 of the National Insurance (Isle of Man) Act 1948, the National Insurance (Isle of Man) Act 1971 and Part 1 of the Isle of Man Contributions and Benefits Act in respect of all tax years before the tax year 1977-1978.
9. In the case of a person to whom this Agreement applies—
- (a) where but for this paragraph, the person would be entitled to pay contributions voluntarily under the legislation of either Party in respect of the same tax year, that person shall be entitled to pay such contributions only under the legislation of one Party of their choice; but
  - (b) where—
    - (i) the person has paid, is treated as having paid or has been credited with, Class 1 contributions, or has paid Class 2 contributions for which that person is liable, in respect of a tax year under the legislation of one or both Parties;
    - (ii) but the earnings on which the Class 1 contributions have been paid, treated as paid or credited, or the Class 2 contributions, do not give rise to an earnings factor which is equal to or greater than the qualifying earnings factor for that tax year in either territory,that person shall be entitled to pay contributions voluntarily in either or both territories in order to acquire a qualifying earnings factor in either or both territories in respect of that tax year.

### **Movement between territories**

10. A person to whom this Agreement applies, who is entitled to a state pension under the Pensions Acts, shall be entitled to receive any increase in the rate of that pension, while that person is in the territory of the Isle of Man, as if that person were in the territory of the United Kingdom.

11. A person to whom this Agreement applies, who is entitled to a retirement pension under the Isle of Man Contributions and Benefits Act, shall be entitled to receive any increase in the rate of

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(9) 1966 c.6 (N.I.).

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that pension, while that person is in the territory of the United Kingdom, as if that person were in the territory of the Isle of Man.

12. A person to whom this Agreement applies, who is entitled to—

- (a) a Category A retirement pension by virtue of section 48 of the Social Security Contributions and Benefits Act 1992 or section 48 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; or
- (b) a Category B retirement pension under Part 2 of the Social Security Contributions and Benefits Act 1992 or Part 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992,

shall be entitled to receive any increase in the rate of that pension, while that person is in the territory of the Isle of Man, as if that person were in the territory of the United Kingdom.

### **General Provisions**

13. The Secretary of State for Work and Pensions (with the consent of the Treasury) and, as the case may require, the Department for Social Development in Northern Ireland (with the consent of the Department of Finance and Personnel) and the Minister for the Treasury of the Isle of Man shall be responsible for making any necessary financial adjustments between the National Insurance Funds of the territories as they may agree to be necessary.

14. The Secretary of State for Work and Pensions and, as the case may require, the Department for Social Development in Northern Ireland and the Minister for the Treasury of the Isle of Man shall from time to time determine the administrative procedures appropriate for the purposes of giving effect to the provisions of this Agreement.

### **Double Benefit**

15. The provisions of the 1977 Agreement and this Agreement shall not confer a right to a double benefit under Part 2 of the Social Security Contributions and Benefits Act 1992, Part 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or the Isle of Man Contributions and Benefits Act.