

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE SECRETARY OF STATE FOR SOCIAL SECURITY, THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR NORTHERN IRELAND AND THE LIEUTENANT-GOVERNOR OF THE ISLE OF MAN, WITH THE ADVICE AND CONSENT OF THE ISLE OF MAN DEPARTMENT OF HEALTH AND SOCIAL SECURITY, OF THE FIRST PART, THE SOCIAL SECURITY COMMITTEE, WITH THE CONSENT OF THE STATES OF JERSEY, OF THE SECOND PART, AND THE GUERNSEY SOCIAL SECURITY AUTHORITY, WITH THE CONSENT OF THE STATES OF GUERNSEY, OF THE THIRD PART

PART I

GENERAL PROVISIONS

Article 1

Definitions

(1) For the purpose of this Agreement, except where the context otherwise requires:

“additional pension” payable under the legislation of the United Kingdom means any additional pension based on the payment of insurance contributions above the level required for entitlement to basic pension;

“attendance benefit” means, in relation to the United Kingdom, attendance allowance or disability living allowance payable under the legislation of the United Kingdom, in relation to Jersey, attendance allowance payable under the legislation of Jersey and, in relation to Guernsey, attendance allowance payable under the legislation of Guernsey;

“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 the United Kingdom, and accident benefit payable under the legislation of Jersey, 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 Guernsey;

“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, a basic retirement pension based on the former spouse’s insurance contributions, payable under the legislation of the United Kingdom, 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 woman on her husband’s contributions, or, for a widow or widower, either, or both, a basic retirement pension and an additional pension based on the late spouse’s contributions, payable under the legislation of the United Kingdom, and an old age pension payable under the legislation of Jersey or Guernsey to a married woman by virtue of the contributions of her husband while he is alive;

“child benefit” means child benefit or family allowance payable under the legislation of any of the Parties;

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“competent authority” means, in relation to the territory of the United Kingdom, the Department of Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of Man, and, in relation to Jersey, the Social Security Committee of the States of Jersey, and, in relation to Guernsey, the Guernsey Social Security Authority, as the case may require;

“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 in question;

“death grant” means a death grant payable under the legislation of Jersey or Guernsey;

“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 Articles 24 to 26, a person who, in 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 Articles 24 to 26, a person who is, or who is treated as being, an employed person under the legislation of the United Kingdom, or an employed or self-employed person under the legislation of Jersey or Guernsey;

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

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

“former Agreements” means the Agreement on Family Allowances between Jersey and Guernsey which entered into force on 8 May 1973, the Agreement on Family Allowances between the United Kingdom and Jersey which entered into force on 8 May 1973 (which Agreement did not include Northern Ireland) and the Agreement on Family Allowances between the United Kingdom and Guernsey which entered into force on 4 April 1977, and the Agreement on Social Security between the United Kingdom and Jersey and Guernsey which entered into force on 6 November 1978, as that Agreement was amended by the Exchanges of Letters which entered into force on 1 November 1982, 25 April 1983 and 27 July 1992;

“gainfully employed” means employed or self-employed;

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

“income tax year” means, in relation to the United Kingdom, the 12 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 a contribution period or an equivalent period;

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

“invalidity benefit” means invalidity pension, additional pension and invalidity allowance payable under the legislation of the United Kingdom, and invalidity benefit payable under the legislation of Jersey or Guernsey;

“Jersey” means the Island of Jersey;

“legislation” means, in relation to a Party, such of the legislation specified in Article 2 as applies in the territory of a Party, or in any part of the territory of that Party;

“maternity allowance” means maternity allowance payable under the legislation of any of the Parties;

“maternity grant” means maternity grant payable under the legislation of Jersey or Guernsey;

“orphan’s benefit” means guardian’s allowance payable under the legislation of the United Kingdom or Guernsey;

“Party” means the United Kingdom or Jersey or Guernsey;

“pension”, “allowance” or “benefit” includes any increases of, or any additional amount payable with, a pension, allowance or benefit respectively;

“qualifying year” means—

- (i) 50 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 52 times the lower earnings limit in an income tax year after 5 April 1978 under the legislation of the United Kingdom, or
- (ii) an annual contribution factor of 1.00 under the legislation of Jersey, or
- (iii) an insurance period of not less than 50 weeks under the legislation of Guernsey;

“reckonable year” means, in relation to the United Kingdom, 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 50 times the lower earnings limit for that year;

“refugee” means a person so defined in Article 1 of the Convention on the Status of Refugees signed on 28 July 1951 and the Protocol to that Convention signed on 31 January 1967;

“retirement pension” means retirement pension or old age pension payable under the legislation of any of the Parties;

“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 the territory of any Party, or a hovercraft which is registered in the territory of any Party, and whose owner (or managing owner if there is more than one owner) resides in, or has a place of business in, any of the territories;

“sickness benefit” means sickness benefit payable under the legislation of any of the Parties;

“stateless person” means a person so defined in Article 1 of the Convention on the Status of Stateless Persons signed on 28 September 1954;

“statutory maternity pay” means a payment which an employer must make under the legislation of Great Britain or Northern Ireland in connection with pregnancy and for a period before and after confinement;

“statutory sick pay” means a payment which an employer must make under the legislation of Great Britain or Northern Ireland in respect of sickness;

“unemployment benefit” means unemployment benefit payable under the legislation of the United Kingdom or Guernsey;

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland and also the Isle of Man;

“widow’s benefit” means—

- (i) widow’s payment, widowed mother’s allowance and widow’s pension payable under the legislation of the United Kingdom, or
- (ii) widow’s allowance, widowed mother’s allowance, widow’s pension and widowed father’s allowance payable under the legislation of Jersey, or

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(iii) widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of Guernsey.

(2) Other words and expressions which are used in this Agreement have the meanings respectively assigned to them in the legislation concerned.

(3) Any reference in this Agreement to "Article" means an Article of this Agreement, 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

Scope of Legislation

(1) This Agreement shall apply,

(a) in relation to the United Kingdom, to:

(i) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992 and the Social Security (Consequential Provisions) Act 1992;

(ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Consequential Provisions) (Northern Ireland) Act 1992;

(iii) the Social Security Acts 1975 to 1991 (Acts of Parliament) and the Child Benefit Act 1975 (an Act 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 1982 (an Act of Tynwald);

(b) in relation to Jersey, to the Social Security (Jersey) Law, 1974, the Family Allowances (Jersey) Law, 1972 and the Attendance Allowance (Jersey) Law, 1973; and

(c) in relation to Guernsey, to the Social Insurance (Guernsey) Law, 1978, the Family Allowances (Guernsey) Law, 1950 and the Attendance and Invalid Care Allowance (Guernsey) Law, 1984;

and the legislation which was repealed or consolidated by those Acts, Laws or Orders or repealed by legislation consolidated by them.

(2) Subject to paragraphs (3) and (4), this Agreement shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1).

(3) This Agreement 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 Agreement and for which specific provision is made in this Agreement.

(4) This Agreement shall not apply to legislation on social security of the Institutions of the European Community or to any agreement or convention on social security which any of the Parties 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 an agreement or convention, but shall not prevent any Party taking into account under its legislation the provisions of any other agreement or convention which that Party has concluded with a third party.

Article 3

Equal Treatment

A person, together with his dependants and survivors, who is, or has been, subject to the legislation of a Party shall, while he is in the territory of any other Party, enjoy the provisions of the legislation of that other Party under the same conditions as a national of that Party, subject to the special provisions of this Agreement.

Article 4

Refugees and Stateless Persons

This Agreement shall apply to refugees and stateless persons who are residing in the territory of any of the Parties. 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 5

Provisions for the Export of Benefit

(1) Subject to Articles 15, 17 to 26 and 34, a person who would be entitled to receive a retirement pension, widow's benefit or 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 any other Party, as if he were in the territory of the former Party.

(2) Subject to Article 13 (3), (4) and (6), a person who continues to be entitled to receive sickness benefit under the legislation of the United Kingdom while he is in Jersey or Guernsey may, after having received, or been deemed to have received, 168 days sickness benefit, become entitled to receive invalidity benefit under the legislation of the United Kingdom while he is in Jersey or Guernsey, provided that he continues to satisfy the insurance authority of the United Kingdom that he remains incapable of work.

(3) Subject to Article 13 (3), (5) and (6), a person who continues to be entitled to receive sickness benefit under the legislation of Jersey while he is in the United Kingdom or Guernsey may, after having received, or been deemed to have received, 364 days sickness benefit, become entitled to receive invalidity benefit under the legislation of Jersey while he is in the United Kingdom or Guernsey, provided that he continues to satisfy the insurance authority of Jersey that he remains incapable of work.

(4) Subject to Article 13 (3), (5) and (6), 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 United Kingdom or Jersey 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 United Kingdom or Jersey, 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 Agreement 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 any other Party.