

SCHEDULE

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

PART IV

BENEFIT PROVISIONS

SECTION 1

PROVISIONS FOR SICKNESS, INVALIDITY AND UNEMPLOYMENT

Article 12 Sickness Benefit

(1) 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 sickness benefit made under the legislation of that Party, any insurance period completed under the legislation of the other Party shall be treated in accordance with Article 11 as if it were an insurance period completed under the legislation of the former Party.

(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 5 to 10, he shall be treated under that legislation for the purpose of any claim to sickness benefit as if he were in the territory of the latter Party.

(3) Subject to paragraphs (5) and (6) and Article 32, where a person would be entitled to receive sickness benefit 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 while he is in Malta if:

- (a) his condition necessitates immediate treatment during a stay in Malta 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 issued by the doctor treating him; or
- (b) having claimed and become entitled to sickness benefit under the legislation of the United Kingdom, he is authorised by the competent authority of that Party to return to Malta where he resides, or to transfer his residence to Malta; or
- (c) having claimed and become entitled to sickness benefit under the legislation of the United Kingdom, he is authorised by the competent authority of that Party to go to Malta 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 the receipt of medical treatment.

(4) Subject to paragraph (5) and Article 32, where a person would, if he were in Great Britain or Northern Ireland, be entitled to statutory sick pay under the legislation of Great Britain or Northern Ireland, he shall, provided that he satisfies all the conditions for entitlement to, and payment of, sickness benefit under the legislation of Great Britain or Northern Ireland, with the exception of any conditions as to residence and presence in Great Britain or Northern Ireland, be entitled to receive that sickness benefit while he is in Malta if:

- (a) his condition necessitates immediate treatment during a stay in Malta and within six days of commencement of incapacity for work, or such longer period as the competent authority

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or insurance authority may allow, he submits to the competent authority or insurance authority of Great Britain or Northern Ireland a claim to benefit and documentary evidence of incapacity for work issued by the doctor treating him; or

- (b) having become entitled to statutory sick pay under the legislation of Great Britain or Northern Ireland, he is authorised by the competent authority of Great Britain or Northern Ireland to return to Malta, where he resides, or to transfer his residence to Malta; or
- (c) having become entitled to statutory sick pay under the legislation of Great Britain or Northern Ireland, he is authorised by the competent authority of Great Britain or Northern Ireland to go to Malta, 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.

(5) Nothing in this Article shall permit the payment of statutory sick pay outside Great Britain or Northern Ireland.

(6) Where a seasonal worker, who is entitled to sickness benefit in Malta by virtue of this Article, goes to Guernsey, or where a seasonal worker, who is entitled to sickness benefit under the legislation of Guernsey, goes to Malta, 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 Malta, or from Guernsey, as the case may be.

(7) Where a person who is resident in the territory of one Party claims but is not entitled to receive sickness benefit under the legislation of that Party but would be entitled to receive sickness benefit 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 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.

(8) Where a person would be entitled to receive sickness benefit under the legislation of Malta 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.

(9) Where, but for this paragraph, a person would be entitled to receive for the same period, whether by virtue of this Convention or otherwise:

- (a) sickness benefit, including industrial injury benefit under the legislation of Guernsey, under the legislation of both Parties, or
- (b) statutory sick pay under the legislation of Great Britain or Northern Ireland, and sickness benefit under the legislation of Malta,

that benefit or payment shall be granted only under the legislation under which the person was last insured before entitlement arose.

Article 13 Invalidation Benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man

(1) Claims to invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man shall be determined only in accordance with this Article and Article 15.

(2) Subject to paragraphs (3) and (4), a person who has satisfied the first contribution condition for sickness benefit using contributions under the legislation of Great Britain, Northern Ireland or the Isle of Man only, and who is in Malta and not in receipt of sickness benefit under Article 12 or subject to the legislation of Great Britain, Northern Ireland or the Isle of Man under any of Articles 6 to 10, shall be entitled to receive invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man provided that:

- (a) the person satisfies the second contribution condition for sickness benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man using relevant insurance periods completed under its legislation and, if necessary, under the legislation of any Party, and
- (b) the person is incapacitated for work and has been so incapacitated throughout the qualifying period for invalidity benefit,

in which case the person shall be treated as if sickness benefit followed, where appropriate, by invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, had been paid throughout that qualifying period.

(3) The right to invalidity benefit under paragraph (2) shall be acquired on the day following the end of the relevant qualifying period or the date of the acquisition of the right to invalidity benefit under the legislation of Malta, if later.

(4) The rate of invalidity benefit payable under paragraph (2) shall be that which would be payable under the legislation of Great Britain, Northern Ireland or the Isle of Man without the application of this Convention unless the person is entitled to an invalidity benefit under the legislation of Malta, whether or not under this Convention, in which case the rate of invalidity benefit payable shall be determined under paragraph (5).

(5) Taking account of Article 11 and sub-paragraphs (a) and (b), the competent authority of Great Britain, Northern Ireland or the Isle of Man shall determine the proportion of invalidity benefit provided under its legislation which bears the same relation to the whole as the total of the insurance periods completed under its legislation bears to the total of the insurance periods completed under the legislation of both Parties.

- (a) Articles 20 and 21 shall apply to insurance periods completed under the legislation of Malta as if the references in those Articles to a retirement pension were a reference to invalidity benefit.
- (b) For the purpose of calculating the proportion of invalidity benefit payable, no account shall be taken of any period of insurance completed after the day on which a person's incapacity commenced.

Subject to Article 22, the amount of benefit calculated in accordance with the above provisions of this paragraph shall be the amount actually payable to that person.

(6) Where a person in the territory of Great Britain, Northern Ireland or the Isle of Man, or a person outside the territory of Great Britain, Northern Ireland or the Isle of Man who is entitled to an invalidity benefit under the relevant legislation other than under paragraph (2), is entitled to an invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man and also entitled to an invalidity benefit under the legislation of Malta, whether or not under this Convention, the rate of invalidity benefit payable under the legislation of Great Britain, Northern Ireland or the Isle of Man shall be determined in accordance with paragraphs (5) and (7).

(7) Where a person to whom paragraph (6) applies:

- (a) would have been entitled to receive invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, without recourse to this Convention; and
- (b) is entitled to receive both invalidity benefit under paragraph (5) and invalidity benefit under the legislation of Malta, whether or not under this Convention, and the sum of these two benefits is less than the amount of invalidity benefit to which the person would otherwise have been entitled under (a);

the competent authority of Great Britain, Northern Ireland or the Isle of Man shall calculate the difference between the amounts of benefit calculated in accordance with sub-paragraphs (a) and (b), on the date that entitlement to invalidity benefit payable under paragraph (5) first arose, and shall pay that amount in addition to the invalidity benefit payable. The additional sum will remain in

payment under the same conditions as the invalidity benefit and subject to the equivalent increases in amount, as appropriate.

(8) No person in relation to whom invalidity benefit is payable under paragraph (5) shall receive a contribution credit under the legislation of Great Britain, Northern Ireland or the Isle of Man unless present in the territory of that part of the United Kingdom.

Article 14 Invalidity Benefit under the legislation of Guernsey

(1) Notwithstanding any other provision of this Convention, invalidity benefit shall be payable under the legislation of Guernsey only in accordance with paragraphs (2) to (6) and Article 15.

(2) For the purpose of qualifying for invalidity benefit, a person who is in Malta, and:

- (a) has satisfied the first contribution condition for sickness benefit using contributions under the legislation of Guernsey only; and
- (b) has satisfied the second contribution condition for sickness benefit using periods of insurance under the legislation of any Party; and
- (c) is incapable of work, and has been so incapable throughout the qualifying period for invalidity benefit,

shall be treated as if he had been entitled to sickness benefit throughout that period.

(3) Where a person has satisfied the conditions set out in paragraph (2) or (4), the competent authority of Guernsey shall:

- (a) deem the contribution conditions for the payment of invalidity benefit satisfied provided that the insurance period completed under the legislation of Guernsey amounts to one qualifying year; and
- (b) calculate the amount of invalidity benefit to be paid, subject to paragraph (5), as being the proportion, not exceeding 100%, of the standard rate which the total number of contributions paid or credited in Guernsey during the prescribed period bears to the product of the number of years in that period and fifty: save that if the amount so calculated is less than one-twentieth of the standard rate no benefit shall be payable.

(4) For the purpose of qualifying for invalidity benefit under the legislation of Guernsey, a person who is in Guernsey, and:

- (a) has satisfied the first contribution condition for sickness benefit using contributions under the legislation of Guernsey only; and
- (b) has satisfied the second contribution condition for sickness benefit using periods of insurance under the legislation of any Party; and
- (c) is incapable of work, and has been so incapable throughout the qualifying period for invalidity benefit,

shall be treated as if he had been entitled to sickness benefit throughout that period.

(5) Where a person is in Guernsey, and:

- (a) is entitled to invalidity benefit under the legislation of Guernsey solely through the application of paragraphs (2) and (3), or has been entitled to such a benefit in relation to the claim in question solely through the application of those paragraphs; and
- (b) is in receipt of invalidity benefit under the legislation of Malta, whether or not by virtue of this Convention,

the amount of the invalidity benefit payable under the legislation of Guernsey shall be reduced by the amount by which the aggregate of both benefits exceeds the standard rate of invalidity benefit under the legislation of Guernsey.

(6) No person in relation to whom invalidity benefit is payable under this Convention shall receive a contribution credit under the legislation of Guernsey unless present in Guernsey.

Article 15 Insurance periods of less than one qualifying or reckonable year

(1) Where all the insurance periods completed by a person under the legislation of any part of the United Kingdom total less than one qualifying year, or one reckonable year, those periods shall be treated in accordance with paragraph (2) or (3).

(2) Insurance periods under paragraph (1), or paragraph (5) of Article 16, 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 benefit is, or if such periods are taken into account, would be, payable, or
- (b) where a benefit 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.

(3) Where no benefit is, or would be, payable under paragraph (2), insurance periods under paragraph (1) shall be treated as if they had been completed under the legislation of Malta.

Article 16 Invalidity Benefit under the legislation of Malta

(1) Subject to paragraphs (2) to (6), Articles 13 to 15 shall also apply, with such modifications as the differing nature of the benefits shall require, to invalidity benefit payable under the legislation of Malta.

(2) Where a person who is in Malta and who does not satisfy the relevant contribution conditions for sickness benefit or invalidity benefit in full using contributions under the legislation of Malta only, the competent authority of Malta may use contributions from any part of the United Kingdom to satisfy those conditions and shall award the appropriate amount of Maltese sickness or invalidity benefit for the first fifty-two weeks of incapacity. Thereafter, if invalidity benefit under the legislation of the United Kingdom is payable, invalidity benefit under the legislation of Malta will be payable using contributions under the legislation of Malta only.

(3) Where a person to whom paragraph (2) applies:

- (a) would have been entitled to receive invalidity benefit under the legislation of Malta, without recourse to this Convention after the first fifty-two weeks of incapacity; and
- (b) is entitled to receive both invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with paragraph (5) of Article 13, or invalidity benefit under the legislation of Guernsey in accordance with paragraph (3) (b) of Article 14, and invalidity benefit under the legislation of Malta, whether or not under this Convention, and the sum of these two benefits is less than the amount of invalidity benefit to which the person would otherwise have been entitled under (a);

the competent authority of Malta shall calculate the difference between the amounts of benefit calculated in accordance with sub-paragraphs (a) and (b), on the date that entitlement to invalidity benefit first arose after the first fifty-two weeks of incapacity, and shall pay that amount in addition to the invalidity benefit payable. The additional sum will remain in payment under the same conditions as the invalidity benefit and subject to the equivalent increases in amount, as appropriate.

(4) A person in the territory of Great Britain, Northern Ireland or the Isle of Man or Guernsey, who is entitled to sickness benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man or Guernsey using contributions under the legislation of Malta in accordance with paragraph (1) of Article 12, shall not be entitled also to an invalidity benefit under the legislation

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of Malta. If invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man or Guernsey is payable subsequently, invalidity benefit under the legislation of Malta shall be payable using contributions under the legislation of Malta only.

(5) Where all the insurance periods completed by a person under the legislation of Malta amount to less than fifty weeks, those periods shall be treated as if they had been completed under the legislation of the United Kingdom in accordance with Article 15(2).

(6) For the purpose of applying Articles 13 to 15 no account shall be taken under the legislation of Malta of any contributions paid or credited under the legislation of the United Kingdom for any period before 2nd February 1965.

Article 17 Unemployment Benefit

(1) Subject to paragraph (3), 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 11 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, and any unemployment benefit paid to that person for any period by the latter 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 by the former Party.

(2) Periods of employment in the territory of either Party 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 either Party re-qualifies for it.

(3) 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 WIDOW'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 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 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 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) For the purposes of determining entitlement to an earnings related retirement pension payable under the legislation of Malta, no account shall be taken of any contribution period completed under the legislation of the United Kingdom, and for the purposes of this Article and Article 19, such an earnings related retirement pension shall be treated as a benefit to which Article 19 does not apply.

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

SECTION 3

PRO-RATA PENSIONS

Article 19 General Provisions

(1) Subject to Articles 18 and 20 to 24, this Article shall apply to determine entitlement to retirement pension, including any increase for dependants, under the legislation of any part of either Party.

(2) In accordance with Article 11, the competent authority 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.

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

- (i) 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 6th April 1975 and in aggregate amount to less than fifty weeks, or
- (ii) 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) 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 Malta.

(6) Where all the insurance periods completed by a person under the legislation of Malta amount to less than fifty weeks, 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

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(1) 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 were completed under that legislation and shall, where appropriate, take into account in accordance with that legislation, insurance periods completed by a spouse or former spouse as the case may be.

(2) For the purpose of applying Article 19, and subject to paragraph (3), the competent authority of Malta shall take account of insurance periods completed under the legislation of the United Kingdom, only where they have been completed during the average test period or working life under that legislation.

(3) For the purpose of this Article, overlapping contributions under the legislation of one Party shall only be taken into account once.

Article 21 Overlapping periods

For the purpose of applying Articles 13 to 16 or 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 or benefit payable under the legislation of the latter Party under Articles 13 to 16, or paragraph (2) of Article 19, shall be increased by the amount by which the pension or benefit 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, other than a voluntary 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

(1) For the purpose of applying Article 19 and, subject to paragraph (2), Article 13, 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 6th 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 paragraph (5) of Article 13 or paragraph (2) of Article 19, as appropriate.

(2) For the purpose of applying Article 13 no account shall be taken of any increase for dependants payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, but any such benefit shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (5) of Article 13.

Article 23 Pre-Scheme Contributions

For the purpose of applying Articles 19 to 22 no account shall be taken under the legislation of Malta of any contribution paid or credited under the legislation of the United Kingdom for any period before 7th May 1956.

Article 24 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 25 Widow's Benefit

(1) Articles 18 to 24 shall also apply, with such modifications as the differing nature of the benefits shall require, to widow's benefit.

(2) Where widow'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 4

BENEFITS FOR INDUSTRIAL ACCIDENTS AND INDUSTRIAL DISEASES

Article 26 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 6 to 10, he shall be treated under that legislation 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 for benefit in respect of that accident:

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- (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 Malta, he shall be entitled to continue to receive such benefit for a period of not more than 13 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.

Article 27 Dual Attribution and Aggravation of an Industrial Disease

- (1) Subject to paragraph (2), where a person contracts an industrial disease, after having been employed in the territories of both Parties in an occupation to which, under the legislation of both Parties, the disease may be attributed and he would be entitled to receive benefit in respect of that disease under the legislation of both Parties, whether by virtue of this Convention or otherwise, the benefit shall be payable only under the legislation of the Party in whose territory he was last employed in that occupation before the disease was diagnosed.
- (2) Where a person has suffered an aggravation of an industrial disease for which benefit has been paid in accordance with paragraph (1), the following provisions shall apply:
- (a) if the person has not had further employment in an occupation to which the disease or the aggravation may be attributed, or has had such employment only in the territory of the Party under whose legislation benefit has been paid, any additional benefit to which he may become entitled as a result of such aggravation shall be payable only under that legislation;
 - (b) if the person makes a claim under the legislation of the Party in whose territory he is employed on the ground that he has suffered an aggravation of the disease while he was employed in the territory of that Party in an occupation to which, under the legislation of that Party, the aggravation may be attributed, the competent authority of that Party shall be liable to pay benefit only in respect of the aggravation as determined under the legislation of that Party.

Article 28 Dual Entitlement

- (1) Where, but for this Article, and subject to Article 27(2)(b), a person would have been entitled to any benefit payable in respect of an industrial accident or an industrial disease under the legislation of both Parties, that benefit shall be payable only under the legislation of the Party in whose territory the person was last employed.
- (2) A person shall not be entitled, whether by virtue of this Convention or otherwise, to receive sickness benefit, including industrial injury benefit under the legislation of Guernsey, or invalidity benefit under the legislation of one Party for any period during which he is entitled to any benefit, other than a pension, under the legislation of the other Party in respect of incapacity for work which results from an industrial accident or an industrial disease.

SECTION 5

Article 29 Orphan's Benefit

(1) Subject to paragraph (2), for the purpose of any claim for orphan's benefit under the legislation of one Party, any period of presence in the territory of the other Party shall be treated as if it were a period of presence in the territory of the former Party.

(2) For the purpose of any claim for orphan's benefit under the legislation of Guernsey, a person who has completed an insurance period under the legislation of Malta shall be treated as if he were an insured person under the legislation of Guernsey.

(3) Where, but for this paragraph, a person would be entitled to receive orphan's benefit under the legislation of both Parties in respect of the same orphan, whether by virtue of this Convention or otherwise, he shall be entitled to receive benefit only under the legislation of the Party in whose territory the orphan is ordinarily resident.

SECTION 6

Article 30 Recovery of advance payments and overpayments of benefit

(1) Where a competent authority of one Party has made a payment of any benefit to a person for any period, or event, in advance of the period, or event, to which it relates or has paid him any benefit for a period, or event, whether by virtue of this Convention or otherwise, and the competent authority of the other Party afterwards decides that the person is entitled to benefit for that period, or event, under its legislation, the competent authority of the latter Party, at the request of the competent authority of the former Party, shall deduct from the benefit due for that period, or event, under its legislation any overpayment which, by virtue of this Convention, results from the advance payment of benefit or from the benefit paid by the competent authority of the former Party and shall, where appropriate, transmit this sum to the competent authority of the former Party.

(2) Where a person has received social assistance under the legislation of Great Britain, Northern Ireland or the Isle of Man or Malta for a period for which that person subsequently becomes entitled to any benefit under the legislation of the other Party, the competent authority of the latter Party, at the request of and on behalf of the competent authority of the former Party, shall withhold from the benefit due for that period the amount by which the social assistance paid exceeded what would have been paid had the benefit under the legislation of the latter Party been paid before the amount of social assistance was determined, and shall transmit the amount withheld to the competent authority of the former Party.