

SCHEDULE 1

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

PART 1

GENERAL PROVISIONS

ARTICLE 1

Definitions

(1) For the purpose of this Convention the following definitions apply, except where the context otherwise requires:

“additional pension” payable under the legislation of Great Britain, Northern Ireland or the Isle of Man means any additional pension based on the payment of insurance contributions above the level required for entitlement to basic pension;

“benefit” means, as appropriate, any benefit, pension, allowance or grant to which this Convention applies and includes any increases of, or any additional amount payable with, such benefit, pension, allowance or grant respectively;

“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 Great Britain, Northern Ireland or the Isle of Man, 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, or
- (iii) occupational injuries benefit payable under the legislation of Ireland;

“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 Great Britain, Northern Ireland or the Isle of Man, 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 Great Britain, Northern Ireland or the Isle of Man, 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;

“competent authority” means, in relation to the territory of the United Kingdom, the Department for Work and Pensions for Great Britain, the Commissioners of Inland Revenue or their authorized representative, the Department for Social Development for Northern Ireland, the Department of Health and Social Security of the Isle of Man, the Employment and Social

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Security Committee of the States of Jersey or the Guernsey Social Security Authority as the case may require, and, in relation to Ireland, the Department of Social and Family Affairs;

“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 concerned or, in the case of Ireland, a period in respect of which a person has qualifying contributions appropriate to the benefit in question;

“death grant” means a death grant payable under the legislation of Jersey, Guernsey and bereavement grant under the legislation of Ireland;

“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;

“earlier agreements” means the Agreements on Social Security signed on behalf of the Governments of the two Parties at London on 29 March 1960 (which Agreement did not include Northern Ireland), at Dublin on 28 February 1966, at Dublin on 3 October 1968 and at London on 14 September 1971 and also includes the arrangements made on 22 July 1964 between the Ministry of Labour and National Insurance in relation to Northern Ireland and the Minister for Social Welfare in relation to Ireland;

“EEA Agreement” means the Agreement establishing the European Economic Area dated 2 May 1992 made between the European Community its Member States and the Member States of the European Free Trade Association and any amendments or modifications thereto;

“EC Treaty” means the Treaty establishing the European Community, signed at Rome on 25 March 1957;

“employed person” means—

- (i) except for the purposes of Articles 25 to 27, 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
- (ii) for the purposes of Articles 25 to 27, a person who, under the legislation of Great Britain, Northern Ireland or the Isle of Man comes within the definition of an employed earner or an employed person, or is treated as such, or an employed or self-employed person under the legislation of Jersey or Guernsey, and
- (iii) in relation to Ireland, an employed contributor within the meaning given by Section 9 of the Social Welfare (Consolidation) Act 1993, and the words “person is employed” shall be construed accordingly;

“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 in question;

“gainfully employed” means employed or self-employed and, in relation to Ireland, insurably employed or insurably self-employed;

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

“Implementing Regulation” means the Regulation (EEC) No 574/72 of the Council laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, including its application to the European Economic Area, and includes amendments and adaptations from time to time applicable thereto;

“income tax year” means—

- (i) in relation to the United Kingdom, the Isle of Man, Jersey and Guernsey the twelve months beginning with 6 April in any year; and

- (ii) in relation to Ireland:
 - (a) in respect of a period prior to 6 April 2001, the twelve months beginning with 6 April in one year and ending on 5 April in the following year, and
 - (b) the period beginning on 6 April 2001 and ending on 31 December 2001, and
 - (c) thereafter, a calendar 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 under the legislation of the United Kingdom, or that a person has qualifying or credited contributions under the legislation of Ireland;

“invalidity benefit” means—

- (i) long-term incapacity benefit, additional pension, invalidity allowance and incapacity age addition payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, or
- (ii) invalidity benefit payable under the legislation of Jersey or Guernsey, or
- (iii) invalidity pension payable under the legislation of Ireland;

“Jersey” means the Island of Jersey;

“legislation” means, in relation to a Party, such of the legislation specified in Article 3 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 the United Kingdom and maternity benefit payable under the legislation of Ireland;

“Party” means, unless otherwise defined—

- (i) the United Kingdom and
- (ii) Ireland;

“qualifying year” means—

- (i) in relation to Great Britain, Northern Ireland or the Isle of Man, at least fifty 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 fifty-two times the lower earnings limit in an income tax year after 5 April 1978 under the legislation of Great Britain, Northern Ireland and the Isle of Man, or
- (ii) in relation to Jersey, an annual contribution factor of 1.00 under the legislation of Jersey, or
- (iii) in relation to Guernsey, an insurance period of not less than fifty weeks under the legislation of Guernsey;

“reckonable year” means, in relation to Great Britain, Northern Ireland or the Isle of Man, 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 fifty 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 done at Geneva on 28 July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31 January 1967;

“Regulation (EEC) 1408/71” means the Regulation (EEC) No 1408/71 of the Council on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, including its application to

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the European Economic Area, and includes amendments and adaptations from time to time applicable thereto;

“retirement pension” means retirement pension or old age pension payable under the legislation of the United Kingdom, and retirement pension or old age (contributory) pension payable under the legislation of Ireland;

“seasonal worker” means a person subject to the legislation of Jersey or Guernsey or Ireland who goes to the territory of Jersey or Guernsey or Ireland (not being the one in which he is ordinarily resident) in order to carry out in that territory for an employer or undertaking with a place of business there, employment of a seasonal character which depends on the cycle of the seasons and which recurs automatically each year, and the duration of which cannot in any case exceed eight months, and who remains in that territory for the duration of that employment;

“self-employed person” means—

- (i) in relation to the United Kingdom, 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
- (ii) in relation to Ireland, a self-employed contributor within the meaning given by Section 9 of the Social Welfare (Consolidation) Act 1993, 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 either territory, or a hovercraft which is registered in either territory, and whose owner (or managing owner if there is more than one owner) resides in, or has a place of business in, either territory;

“sickness benefit” means—

- (i) short-term incapacity benefit at the lower, higher or long-term rate payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, and
- (ii) sickness benefit payable under the legislation of Jersey or Guernsey, or industrial injury benefit payable under the legislation of Guernsey, and
- (iii) disability benefit payable under the legislation of Ireland;

“social assistance” means income support and income-based jobseeker’s allowance payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, and, in relation to Ireland, any payment made under any assistance scheme described in Section 118 of the Social Welfare (Consolidation) Act 1993;

“stateless person” means a person so defined in Article 1 of the Convention on the Status of Stateless Persons done at New York 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;

“survivor’s benefit” means—

- (i) bereavement payment, bereavement allowance, and widowed parent’s allowance payable under the legislation of Great Britain or Northern Ireland, and
- (ii) widow’s payment, widowed mother’s allowance and widow’s pension payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, or
- (iii) widow’s allowance, widowed mother’s allowance, widow’s pension and widowed father’s allowance payable under the legislation of Jersey, or

- (iv) survivor's grant, widowed parent's allowance and widow's pension payable under the legislation of Guernsey, or
- (v) Widow's and Widower's (Contributory) Pension, and bereavement grant under the legislation of Ireland.

“territory” means, in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man, Jersey and Guernsey; and references to the “United Kingdom” or to “territory” in relation to the United Kingdom shall include the Isle of Man, Jersey and Guernsey where appropriate;

“unemployment benefit” means unemployment benefit or contribution-based jobseeker's allowance payable under the legislation of Great Britain or Northern Ireland, or unemployment benefit payable under the legislation of Guernsey or Ireland.

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

(3) Any reference in this Convention to an “Article” means an Article of this Convention, 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

Persons covered

Subject to Article 36, this Convention shall apply:

- (a) as regards relations between Great Britain, Northern Ireland and Ireland, only to persons to whom, in relation to a specific event or circumstance, Regulation (EEC) 1408/71 and the Implementing Regulation do not apply, or do not become applicable; and
- (b) as regards relations between Jersey, Guernsey, the Isle of Man and Ireland, to persons who are, or have been, subject to their legislation, to members of their families and to their survivors.

ARTICLE 3

Scope of legislation

(1) This Convention shall apply,

- (a) in relation to the territory of the United Kingdom, to:
 - (i) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, the Social Security (Consequential Provisions) Act 1992, the Social Security (Incapacity for Work) Act 1994, the Jobseekers Act 1995, the Social Security Act 1998, the Social Security Contributions (Transfer of Functions etc.) Act 1999 and the Welfare Reform and Pensions Act 1999,
 - (ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security (Consequential Provisions) (Northern Ireland) Act 1992, the Social Security (Incapacity for Work) (Northern Ireland) Order 1994, the Jobseekers (Northern Ireland) Order 1995, the Social Security (Northern Ireland) Order 1998, the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 and the Welfare Reform and Pensions (Northern Ireland) Order 1999,
 - (iii) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, the Social Security (Consequential Provisions) Act 1992 and the Social Security (Incapacity for Work) Act 1994, the Jobseekers Act 1995, the

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- Social Security Act 1998 and the Welfare Reform and Pensions Act 1999 (Acts 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 2000 (an Act of Tynwald),
- (iv) the Social Security (Jersey) Law, 1974,
 - (v) the Social Insurance (Guernsey) Law, 1978 and the Family Allowances (Guernsey) Law, 1950, and the legislation which was repealed or consolidated by those Acts, Laws or Orders or repealed by legislation consolidated by them;
- (b) in relation to Ireland to the Social Welfare Acts 1981 to 2004 and the Regulations made under those Acts as they relate to:
- (i) disability benefit,
 - (ii) maternity benefit,
 - (iii) unemployment benefit (including any additional amount payable by way of pay-related benefit),
 - (iv) invalidity pension,
 - (v) old age (contributory) pension,
 - (vi) retirement pension,
 - (vii) widow's or widower's (contributory) pension,
 - (viii) orphans (contributory) allowance,
 - (ix) bereavement grant,
 - (x) occupational injuries benefits, and
 - (xi) the liability of a person gainfully employed outside of Ireland to the payment of employment or self-employment contributions.

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

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

(4) This Convention shall not affect rights and obligations arising under legislation on social security enacted in accordance with the EC Treaty or the EEA Agreement or apply to any convention on social security which either Party 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 a convention, but shall not prevent either Party taking into account under its legislation the provisions of any other convention which that Party has concluded with a third party.

ARTICLE 4

Equal treatment

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

ARTICLE 5

Refugees and stateless persons

This Convention shall apply to refugees or stateless persons who are residing in the territory of either Party. 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 6

Provisions for the export of benefit

(1) Subject to paragraph (2) and Articles 15, 17 to 27 and 33, a person who would be entitled to receive a retirement pension, survivor's benefit, 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 the other Party, as if he were in the territory of the former Party.

(2) Subject to Article 14(3) and (5), a person who continues to be entitled to receive sickness benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man while he is in Ireland may, after having received, or been deemed to have received, 364 days sickness benefit, become entitled to receive invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man while he is in Ireland, provided that he continues to satisfy the insurance authority of the former Party that he remains incapable of work.

(3) Subject to Article 14(3) to (5), a person who continues to be entitled to receive sickness benefit under the legislation of Jersey while he is in Ireland 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 Ireland, provided that he continues to satisfy the insurance authority of Jersey that he remains incapable of work.

(4) Subject to Article 14(3) to (5), a person who continues to be entitled to receive sickness benefit or industrial injury benefit under the legislation of Guernsey while he is in Ireland 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 Ireland, provided that he continues to satisfy the insurance authority of Guernsey that he remains incapable of work.

(5) Subject to Article 22, where, under the legislation of one Party, an increase of any of the benefits for which specific provision is made in this Convention 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 the other Party.