

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 IV

BENEFIT PROVISIONS

SECTION 1

PROVISIONS FOR SICKNESS, MATERNITY, INVALIDITY AND UNEMPLOYMENT

ARTICLE 14

Sickness benefit and Maternity allowance

(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 or maternity allowance 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 13 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 7 to 12, 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 33, where a person would be entitled to receive sickness benefit or maternity allowance under the legislation of one 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 other Party if:

- (a) his condition necessitates immediate treatment during a stay in the territory of the latter Party and, within 6 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 former Party 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 or maternity allowance under the legislation of the former Party he is authorised by the competent authority of that Party to return to the territory of the latter Party where he resides, or to transfer his residence to the territory of the latter Party; or
- (c) having claimed and become entitled to sickness benefit or maternity allowance under the legislation of the former Party, he is authorised by the competent authority of that Party to go to the territory of the latter Party 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, or Ireland, returns to the territory in which he is ordinarily resident, 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 or Ireland, as the case may be.

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(5) Where a person who is resident in the territory of one Party claims but is not entitled to receive sickness benefit or maternity allowance under the legislation of that Party but 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 or maternity allowance under the legislation of Ireland 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 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:

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

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

(8) For the purpose of calculating the weekly rate of maternity allowance under the legislation of Ireland, where the provisions of Section 39(1)(a) of the Social Welfare (Consolidation) Act, 1993, are being applied, an amount equal to the average weekly wage of female employed persons in the income tax year prescribed for the purpose of the aforesaid Section 39, shall be credited to the employed person in respect of each week completed as an employed person under the legislation of the United Kingdom in respect of that income tax year.

ARTICLE 15

Invalidity benefit

(1) Where a person has been insured under the legislation of both Parties, the competent authority 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 statutory sick pay under the legislation of Great Britain or Northern Ireland, or 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, statutory sick pay or industrial injury benefit, as the case may be, under the legislation of the Party in whose territory the incapacity began.

ARTICLE 16

Unemployment benefit

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

(2) Subject to paragraphs (4) to (6) and paragraph (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 13 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 one 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 Guernsey or Ireland requalifies for it.

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

(6) 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.

(7) For the purpose of paragraph (2), insurance periods completed under the legislation of Jersey or the Isle of Man shall be taken into account for the purpose of determining entitlement to unemployment benefit under the legislation of Ireland provided the person has thirty-nine qualifying contributions as an employed contributor under the legislation of Ireland.

(8) For the purpose of determining whether a person is entitled to be credited with a Class 1 contribution under the legislation of Guernsey in respect of any week of unemployment, any insurance period, or any period of employment, completed by him under the legislation of Ireland, shall be treated as an insurance period or period of employment, as the case may be, under the legislation of Guernsey.

SECTION 2

RETIREMENT PENSION AND SURVIVOR'S BENEFIT

ARTICLE 17

General provisions

(1) Subject to paragraphs (2) to (4) and Article 22, 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 18 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 18.

(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 18. 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 Article 18(4) to (6) and (8) insurance periods completed under the legislation of any other part of either Party.

ARTICLE 18

Pro-rata Pensions

(1) Subject to Articles 19 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.

(2) For the purposes of determining entitlement to retirement pension, no account shall be taken of any increase for dependent children, but any such increase shall be payable in accordance with Article 22.

(3) In accordance with Article 13, 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.

(4) For the purpose of the calculation in paragraph (3), 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 if the combined total of the number of weeks of insurance, after conversion to contribution weeks in accordance with Article 13(9), if appropriate, is less than fifty; 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 (5) or (6).

(5) Insurance periods under paragraphs (4) and (8) 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.

(6) Where no pension is, or would be, payable under paragraph (5), insurance periods under paragraph (4) shall be treated as if they had been completed under the legislation of Ireland.

(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.

(8) Where all the insurance periods completed by a person under the legislation of Ireland 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 (5).

ARTICLE 19

Insurance periods to be taken into account

(1) For the purpose of applying Article 18 the competent authority of either Party 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 its legislation 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) Where, in relation to any claim to receive old age benefit or survivor's benefit, it is found that the insured person was paid sickness benefit, disability benefit or invalidity pension as the case may be, by virtue of reciprocal provisions in the earlier agreements, for any continuous period of not less than 26 weeks the contributions credited to him in respect of that period shall—

- (a) if before the beginning of that period he has paid at least 156 contributions of the appropriate class under the legislation of one Party, but less than 156 contributions of the appropriate class under the legislation of the other Party, be treated as credited to him under the legislation of the first Party; or
- (b) if before the beginning of that period he has paid at least 156 contributions of the appropriate class under the legislation of both Parties, be treated as credited to him under the legislation of the Party under whose legislation the benefit or pension was paid during that period; or
- (c) if before the beginning of that period he has paid less than 156 contributions of the appropriate class under the legislation of either Party be treated as credited to him under the legislation of each Party for that part of that period which bears the same relation to the whole as the number of the appropriate class paid by him under that legislation before the beginning of that period bears to the total number of contributions of the appropriate class paid by him under the legislation of the two Parties before the beginning of that period.

ARTICLE 20

Overlapping periods

For the purpose of applying Article 18:

- (a) where a compulsory contribution period or an equivalent period completed under the legislation of one Party coincides with a voluntary contribution period completed under the legislation of the other Party, only the compulsory contribution period or equivalent period shall be taken into account, provided that the amount of pension payable under the legislation of the latter Party under Article 18(3) 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, 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

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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 21

Benefits to be excluded

(1) For the purpose of applying Article 18 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 18(3).

(2) For the purpose of applying Article 18 no account shall be taken of the following payments under the legislation of Ireland:

- (a) any increase for child dependants;
- (b) any increase where the person has attained pensionable age and is living alone;
- (c) any increase where the person has attained the age of eighty years;

but such payments shall, where appropriate, be added to the amount of benefit payable under that legislation in accordance with Article 18(3).

ARTICLE 22

Increases for dependant children

(1) This Article shall apply to any increase of a retirement pension or a survivor's benefit payable under the legislation of either Party in respect of a dependent child or dependent children.

(2) Such increase shall be payable in accordance with the following provisions:

- (a) where a retirement pension or a survivor's benefit is payable only under the legislation of one Party, the increase shall be payable under the legislation of that Party;
- (b) where a retirement pension or a survivor's benefit is payable under the legislation of both Parties and an increase would otherwise be payable under the legislation of both Parties in respect of the same child, the increase shall be payable under the legislation of the Party

in whose territory the pensioner, widow or widower is ordinarily resident at the date of entitlement to the increase.

(3) Where an increase cannot be paid under paragraph (2)(b) because the pensioner or widow is not ordinarily resident in the territory of either Party, the increase shall be payable under the legislation of the Party in whose territory the pensioner or widow was last ordinarily resident.

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 18.

ARTICLE 24

Survivor's benefit

(1) Articles 17 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.

(3) A person who is entitled to receive survivor's benefit under the legislation of Jersey shall be awarded credits only for periods during which that person is ordinarily resident in Jersey.

(4) A person who is entitled to receive survivor's benefit under the legislation of Guernsey while he is in Ireland, shall not be credited with a Class 3 contribution in respect of every week during which that benefit is payable to him, but shall be credited, for the purposes of entitlement to retirement pension or death grant, in respect of each year during the whole or part of which such benefit is payable, with a number of Class 3 contributions equal to his spouse's yearly average of reckonable contributions at the date of her death. If the rate of retirement pension payable to such a person would be less than the rate of survivor's benefit formerly payable it shall be increased to that of the survivor's benefit.

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 12, he shall be treated under the legislation of the latter Party for the purpose of any claim for 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

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- (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 Ireland, he shall be entitled to continue to receive such benefit for a period of 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.

ARTICLE 26

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 27

Dual entitlement

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, invalidity benefit or maternity allowance under the legislation of one Party for any period during which he is entitled to 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 4

FAMILY BENEFITS

ARTICLE 28

Family allowance

For the purposes of any claim to family allowance under the legislation of Guernsey:

- (a) any period of residence or presence in Ireland shall be treated as a period of residence or presence in Guernsey; and
- (b) a person whose place of birth was in Ireland shall be treated as if his place of birth were in Guernsey.

SECTION 5
DEATH BENEFIT

ARTICLE 29

Death grant under the legislation of Jersey, Guernsey or Ireland

- (1) In this Article “Party” means Jersey, Guernsey or Ireland, as the case may be.
- (2) For the purpose of any claim to death grant under the legislation of either Party any insurance period completed by the relevant person under the legislation of one Party shall be treated in accordance with Article 13 as if it were an insurance period completed under the legislation of the other Party.
- (3) For the purpose of any claim to death grant under the legislation of Ireland the relevant person may, in addition to the deceased person, also include the spouse of the deceased person or, in the case where a grant is claimed in respect of a deceased child, the father or mother of the child or such persons defined in Section 114(2) (a)(ii) and (iii) of the Social Welfare (Consolidation) Act 1993.
- (4) Where a person dies in the territory of either Party his death shall be treated, for the purpose of any claim to death grant under the legislation of one Party, as if it had occurred in the territory of that Party.
- (5) Where there would be entitlement to death grant under the legislation of both Parties, whether by virtue of this Convention or otherwise:
 - (a) the grant shall be payable only under the legislation of the Party in whose territory the death occurs; or
 - (b) if the death does not occur in the territory of either Party, the grant shall be payable only under the legislation of the Party under whose legislation the person on whose insurance the right to the grant is determined was last insured before the death.
- (6) For the purposes of this Article no account shall be taken of any insurance period completed under the legislation of the other Party:
 - (a) under the legislation of the Republic of Ireland in respect of any period prior to 1 October 1970;
 - (b) under the legislation of Guernsey in respect of any period prior to 7 June 1971.