

SCHEDULE

Regulation 2

MEMORANDUM OF RECIPROCAL ARRANGEMENTS RELATING TO SOCIAL SECURITY BETWEEN THE SECRETARY OF STATE FOR WORK AND PENSIONS, WITH THE CONSENT OF THE TREASURY, OF THE ONE PART AND THE MINISTER FOR SOCIAL DEVELOPMENT (BEING THE NORTHERN IRELAND MINISTER HAVING RESPONSIBILITY FOR SOCIAL SECURITY), WITH THE CONSENT OF THE DEPARTMENT OF FINANCE AND PERSONNEL, OF THE OTHER PART

1.—(1) In this Memorandum—

“determining authority” means—

- (a) in relation to Great Britain, the Secretary of State, the First-Tier Tribunal established under section 3(1) (the First-tier Tribunal and the Upper Tribunal) of the Tribunals, Courts and Enforcement Act 2007(1) or the Upper Tribunal established under section 3(2) of that Act, and
- (b) in relation to Northern Ireland, the Northern Ireland department having responsibility for social security, an appeal tribunal constituted under Chapter 1 (general) of Part 2 (decisions and appeals) of the Social Security (Northern Ireland) Order 1998(2) or a Commissioner appointed under section 50 (appointment of Commissioners) of the Social Security Administration (Northern Ireland) Act 1992(3),

as the case may require;

“legislation” means—

- (a) in relation to Great Britain the following legislation and any subordinate legislation made or having effect as if made under that legislation—
 - (i) the Social Security Administration Act 1992;
 - (ii) the Social Security Contributions and Benefits Act 1992, except Parts 7 (income-related benefits), 10 (Christmas bonus for pensioners), 11 (statutory sick pay), 12 (statutory maternity pay), 12ZA (statutory paternity pay)(4), 12ZB (statutory adoption pay)(5) and 12ZC (statutory shared parental pay)(6);
 - (iii) the Jobseekers Act 1995, except in relation to an income-based jobseeker’s allowance, which has the meaning given by section 1(4) (the jobseeker’s allowance) of that Act(7);
 - (iv) Chapter 2 (social security decisions and appeals) of Part 1 (decisions and appeals) of the Social Security Act 1998;
 - (v) section 23 (supply of pension information in connection with divorce etc.), so far as it relates to shareable state scheme rights, and Chapter 2 (sharing of state scheme rights) of Part 4 (pension sharing) of the Welfare Reform and Pensions Act 1999;
 - (vi) Part 1 (employment and support allowance) of the Welfare Reform Act 2007;
 - (vii) Part 4 (personal independence payment) of the Welfare Reform Act 2012;
 - (viii) Part 1 (state pension) of the Pensions Act 2014;

(1) 2007 c.15.

(2) S.I. 1998/1506 (N.I.10).

(3) 1992 c.8.

(4) Part 12ZA was inserted by section 2 of the Employment Act 2002 (c.22).

(5) Part 12ZB was inserted by section 4 of the Employment Act 2002.

(6) Part 12ZC was inserted by section 119(1) of the Children and Families Act 2014 (c.6).

(7) Section 1(4) is repealed by paragraph 1 of Schedule 14 to the Welfare Reform Act 2012. This repeal has effect on different days in different areas as a result of the gradual introduction of Universal Credit.

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- (b) in relation to Northern Ireland the following legislation and any subordinate legislation made or having effect as if made under that legislation—
- (i) the Social Security Administration (Northern Ireland) Act 1992⁽⁸⁾;
 - (ii) the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽⁹⁾ except Parts 7 (income-related benefits), 10 (Christmas bonus for pensioners), 11 (statutory sick pay), 12 (statutory maternity pay), 12ZA (statutory paternity pay)⁽¹⁰⁾, 12ZB (statutory adoption pay)⁽¹¹⁾ and 12ZC (statutory shared parental pay)⁽¹²⁾;
 - (iii) the Jobseekers (Northern Ireland) Order 1995⁽¹³⁾, except in relation to an income-based jobseeker’s allowance, which has the meaning given by Article 3(4) (the jobseeker’s allowance) of that Order;
 - (iv) Chapter 2 (social security decisions and appeals) of Part 2 (decisions and appeals) of the Social Security (Northern Ireland) Order 1998;
 - (v) Article 21 (supply of pension information in connection with divorce etc.), so far as it relates to shareable state scheme rights, and Chapter 2 (sharing of state scheme rights) of Part 5 (pension sharing) of the Welfare Reform and Pensions (Northern Ireland) Order 1999⁽¹⁴⁾;
 - (vi) Part 1 (employment and support allowance) of the Welfare Reform Act (Northern Ireland) 2007⁽¹⁵⁾;
 - (vii) Part 5 (personal independence payment) of the Welfare Reform (Northern Ireland) Order 2015⁽¹⁶⁾;
 - (viii) Part 1 (state pension) of the Pensions Act (Northern Ireland) 2015⁽¹⁷⁾;

in each case as amended, modified, adapted, extended, supplemented, replaced or consolidated by any subsequent enactment or by any subordinate legislation, but not legislation made for the purpose of giving effect to the provisions of any agreement applying to one of the two territories and providing for reciprocity with a scheme of social security in force outside the United Kingdom;

“territory” means Great Britain or Northern Ireland, as the case may require.

(2) In the application of this Memorandum to a territory, expressions used in this Memorandum shall have the same meaning as in the legislation which relates to that territory.

(3) The rules for the construction of Acts of Parliament and instruments contained in the Interpretation Act 1978⁽¹⁸⁾ shall apply for the purposes of the interpretation of this Agreement as they apply for the purposes of the interpretation of an Act of Parliament or instrument.

2.—(1) For the purposes of all the provisions of the systems of social security established by the legislation—

- (a) acts, omissions and events and in particular residence, presence, employment (including employment as a mariner or airman), the occurrence of an industrial accident or the

⁽⁸⁾ 1992 c.8.

⁽⁹⁾ 1992 c.7.

⁽¹⁰⁾ Part 12ZA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I.2)) and was amended paragraph 2(6) of Schedule 1 to the Work and Families Act (Northern Ireland) 2015 (c.1 (N.I.)).

⁽¹¹⁾ Part 12ZB was inserted by Article 6 of the Employment (Northern Ireland) Order 2002.

⁽¹²⁾ Part 12ZC was inserted by section 5 of the Work and Families Act (Northern Ireland) 2015.

⁽¹³⁾ S.I. 1995/2705 (N.I. 15).

⁽¹⁴⁾ S.I. 1999/3147 (N.I. 11). Article 21 was amended by paragraph 108 of Schedule 29 to the Civil Partnership Act 2004.

⁽¹⁵⁾ 2007 c.2 (N.I.).

⁽¹⁶⁾ S.I. 2015/2006 (N.I. 1).

⁽¹⁷⁾ 2015 c.5 (N.I.).

⁽¹⁸⁾ 1978 c.30.

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development of any prescribed disease, the payment, crediting or treating as paid of contributions (including graduated contributions and payments in lieu of graduated contributions), the refund of contributions paid in excess of the annual maximum amounts payable and the payment or claiming of benefit; and

(b) the operation of any provisions as to exception from liability to pay contributions, having effect for all or any of those purposes in one territory shall have corresponding effect for all or any of those purposes in the other territory.

(2) If an employed earner has an accident after that person leaves one territory to go in the course of that person's employment to the other territory and before that person arrives in the latter territory, then for the purpose of any right to benefit in respect of that accident—

- (a) a claim for benefit may be made in either territory;
- (b) the accident shall be treated as if it had happened in the territory in which the claim is made; and
- (c) the employed earner's absence from either territory shall be disregarded in determining whether the employment is employed earner's employment for the purposes of those provisions of the legislation relating to industrial injuries benefits.

3. Where the determining authority has made a decision relating to a claim for benefit arising under or in connection with the legislation, including a decision as revised or superseded,

- (a) the decision may be revised or superseded; and
- (b) any appeal from the decision may be determined

under and to the extent permitted by the legislation of the territory in which the claimant is, as if the decision had been made in that territory, notwithstanding that the decision was made in the other territory.

4. The provisions of Articles 2 and 3 of this Memorandum shall not confer a right to double benefit.

5. The Social Security, Child Support and Pensions Joint Authority⁽¹⁹⁾ shall from time to time determine the administrative procedures appropriate for the purposes of giving effect to the provisions of this Memorandum.

6. The arrangements in this Memorandum shall come into force on 6th April 2016, but either Party may terminate them by giving not less than six months notice in writing to the other.

7.—(1) The Memorandum of Reciprocal Arrangements of 3rd June 1976 set out in Schedule 1 to the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 1976 and the Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1976⁽²⁰⁾ (as amended by the exchange of letters of 30th July 1999 set out in the Schedule to the Social Security (Northern Ireland Reciprocal Arrangements) Amendment Regulations 1999 and the Social Security (Great Britain Reciprocal Arrangements) (Amendment) Regulations (Northern Ireland) 1999⁽²¹⁾) and made between the Secretary of State for Social Services, with the consent of the Treasury, of the one part, and the Department of Health and Social Services for Northern Ireland, with the consent of the Department of Finance for Northern Ireland, of the other part shall be terminated upon the coming into force of this Memorandum.

(2) Anything occurring, done or suffered before any such termination and having effect for the purposes of the said Memorandum shall be treated as having a corresponding effect for the purposes of this Memorandum.

⁽¹⁹⁾ See section 88(1)(b) of the Northern Ireland Act 1998 (c.47).

⁽²⁰⁾ S.R. 1976/196.

⁽²¹⁾ S.R. 1999/350.

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