STATUTORY RULES OF NORTHERN IRELAND

2007 No. 438

SOCIAL SECURITY

The Social Security (Ireland) Order (Northern Ireland) 2007

Made - - - - 26th September 2007

Coming into operation 1st October 2007

The Secretary of State for Northern Ireland makes the following Order in exercise of the powers conferred by section 155(1)(a) and (2) of the Social Security Administration (Northern Ireland) Act 1992(**1**).

Citation and commencement

1. This Order may be cited as the Social Security (Ireland) Order (Northern Ireland) 2007 and shall come into operation on 1st October 2007.

Modification of Acts and the Jobseekers (Northern Ireland) Order 1995

2. The Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) and the Jobseekers (Northern Ireland) Order 1995(**3**) are modified to such extent as may be required to give effect to the provisions contained in the Convention set out in Schedule 1, as amended by the Exchange of Notes set out in Schedule 2, so far as those provisions relate to Northern Ireland.

Revocation and variation of Orders

3.—(1) The National Insurance and Industrial Injuries (Reciprocal Agreement with the Republic of Ireland) Order (Northern Ireland) 1964(**4**), the National Insurance (Republic of Ireland) Order (Northern Ireland) 1966(**5**), the National Insurance and Industrial Injuries (Republic of Ireland) Order (Northern Ireland) 1968(**6**) and the National Insurance (Republic of Ireland) Order (Northern Ireland) 1972(**7**) are revoked.

(2) The references to those Orders shall be omitted in—

(**1**) 1992 c. 8
(**2**) 1992 c. 7
(**3**) S.I.1995/2705 (N.I. 15)
(**4**) S.R. & O. (N.I.) 1964 No. 142
(**5**) S.R. & O. (N.I.) 1966 No. 50
(**6**) S.R. & O. 1968 No. 252
(**7**) S.R. & O. 1972 No. 4

(a) Schedule 1 to the Social Security (Reciprocal Agreements) (Northern Ireland) Order 1976(**8**);

(b) the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1979(**9**);

(c) the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1988(**10**);

(d) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1995(**11**);

(e) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1996(**12**);

(f) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 2001(**13**); and

(g) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 2005(**14**).

Shaun Woodward
One of Her Majesty's Principal Secretaries of State

Dated this 26th day of September 2007

(**8**) S.I. 1976/1044
(**9**) S.R. 1979 No. 92
(**10**) S.R. 1988 No. 120
(**11**) S.R. 1995 No. 110
(**12**) S.R. 1996 No. 327
(**13**) S.R. 2001 No. 86
(**14**) S.R. 2005 No. 544

SCHEDULE 1 Article 2

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland;

Having established reciprocity in the field of social security by means of the Agreements which were signed on their behalf 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 including 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;

Wishing to consolidate the earlier Agreements and their extension and modification into a new convention;

Wishing to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows:

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 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