STATUTORY RULES OF NORTHERN IRELAND

2007 No. 295

SOCIAL SECURITY

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

Made - - - -	*7th May 2007*
Coming into operation	*1st June 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 (Netherlands) Order (Northern Ireland) 2007 and shall come into operation on 1st June 2007.

Modification of Acts and the Jobseekers (Northern Ireland) Order

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 the Schedule so far as they relate to Northern Ireland.

Revocation and variation of Orders

3.—(1) The National Insurance and Industrial Injuries (Reciprocal Agreement with the Netherlands) Order (Northern Ireland) 1955(**4**) is revoked.

(2) The reference to the National Insurance and Industrial Injuries (Reciprocal Agreement with the Netherlands) Order (Northern Ireland) 1955 shall be omitted in—

(a) Schedule 1 to the Social Security (Reciprocal Agreements) (Northern Ireland) Order 1976(**5**);

(**1**) 1992 c. 8
(**2**) 1992 c. 7
(**3**) S.I.1995/2705 (N.I. 15)
(**4**) S.R. & O. (N.I.) 1955 No. 122 (p. 373)
(**5**) S.I. 1976/1044

(b) the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1979(**6**);

(c) the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1988(**7**);

(d) Schedules 2 and 3 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1995(**8**);

(e) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1996(**9**);

(f) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 2001(**10**); and

(g) Schedule 2 to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 2005(**11**).

Peter Hain
One of Her Majesty's Principal Secretaries of State

Dated this 7th day of May 2007

(**6**) S.R. 1979 No. 92
(**7**) S.R. 1988 No. 120
(**8**) S.R. 1995 No. 110
(**9**) S.R. 1996 No. 327
(**10**) S.R. 2001 No. 86
(**11**) S.R. 2005 No. 544

SCHEDULE Article 2

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

The United Kingdom of Great Britain and Northern Ireland and the Kingdom of the Netherlands having established reciprocity in the field of social security by means of the Convention on Social Security between the United Kingdom and the Kingdom of the Netherlands, signed at The Hague on 11 August 1954;

Wishing to consolidate the above Convention and its extension and modification into a single document;

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

Have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE 1***Definitions***

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

(a) Countries

"Guernsey" means the Islands of Guernsey, Alderney, Herm and Jethou;

"Jersey" means the Island of Jersey;

"Netherlands" means the Kingdom of the Netherlands;

"territory" means—

(i) 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, or

(ii) in relation to the Netherlands, the territory in Europe.

(b) General definitions

"competent authority" means—

(i) in relation to the territory of the United Kingdom, the Department for Work and Pensions for Great Britain, the Commissioners of the 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 Social Security Department of the States of Guernsey as the case may require, and

(ii) in relation to the Netherlands, the Minister for Social Affairs and Employment;

"competent institution" means, in relation to the Netherlands, any institution or authority responsible for administering all or part of the legislation specified in Article 3(1)(b);

"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;

"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;

"employed person" means—

(i) except for the purposes of Article 25, a person who, under the applicable legislation, comes within the definition of an employed earner or of an employed person or is treated as such, and the words "person is employed" shall be construed accordingly, or

(ii) for the purposes of Article 25, 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 of an employed person or is treated as such, or an employed or self-employed person under the legislation of Jersey or Guernsey, 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, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

"former Convention" means the Convention on Social Security between the Kingdom of the Netherlands and the United Kingdom of 11 August 1954;

"gainfully employed" means employed or self-employed;

"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, in relation to the United Kingdom, the twelve months beginning with 6 April in any year;

"insurance authority" means the authority competent to decide entitlement to the benefit in question;

"insurance period" means, in relation to the United Kingdom, a contribution period or an equivalent period and, in relation to the Netherlands, an insurance period completed under the legislation of the Netherlands;

"insured" means, in relation to the United Kingdom, that contributions have been paid by, or are payable by, or in respect of, or have been credited in respect of, the person concerned;

"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;

"Party" means, unless otherwise defined in the Convention, the United Kingdom or the Netherlands;

"pension", "allowance" or "benefit" includes any increases of, or any additional amount payable with, a pension, allowance or benefit respectively, by virtue of the legislation as defined in Article 3;

"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 or 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 as referred to in Article 1 of the Convention on the Status of Refugees, done at Geneva on 28 July 1951 and 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 the European Economic Area, and includes amendments and adaptations from time to time applicable thereto;

"seasonal worker" means a person subject to the legislation of Jersey or Guernsey who goes to the Netherlands after carrying out in the former 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 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 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;

"stateless person" means a person as referred to in Article 1 of the Convention relating to the Status of Stateless Persons, done at New York on 28 September 1954;

(c) Old Age, Death, Survivors and Invalidity Pensions or Benefits

"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;

"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, or for certain persons whose civil partnerships have ended by dissolution or by the death of a civil partner, a basic retirement pension based on the former spouse's or civil partner'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 person or civil partner on the spouse's or civil partner's contributions or, for a widow, widower or surviving civil partner, either, or both, a basic retirement pension and an additional pension based on the late spouse's or civil partner'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 her husband's contributions while he is alive;

"survivor's benefit" means—