STATUTORY RULES OF NORTHERN IRELAND

2000 No. 246

SOCIAL SECURITY

The Social Security (Contributions) (Republic of Korea) Order (Northern Ireland) 2000

Made - - - -	*27th July 2000*
Coming into operation	*1st August 2000*

In exercise of the powers conferred on me by section 155(1)(a) and (2) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and of all other powers enabling me in that behalf, I hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Social Security (Contributions) (Republic of Korea) Order (Northern Ireland) 2000 and shall come into operation on 1st August 2000.

(2) In this Order "the Convention" means the Convention on Social Security(**2**), between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Korea, which was signed on behalf of those Governments at Seoul on 20th April 1999.

Modification of the Social Security Contributions and Benefits (Northern Ireland) Act and the Social Security Administration (Northern Ireland) Act

2. The Social Security Contributions and Benefits (Northern Ireland) Act 1992(**3**) and the Social Security Administration (Northern Ireland) Act 1992 shall be modified to such an extent as may be required to give effect to the provisions contained in the Convention (set out in the Schedule to this Order), so far as the same relate to Northern Ireland.

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

Dated this 27th day of July 2000.

(**1**) 1992 c. 8
(**2**) *See*Cm 4390
(**3**) 1992 c. 7

SCHEDULE

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

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

Being resolved to co-operate in the field of social affairs and, in particular, as regards liability for social security contributions;

Wishing to promote the welfare of persons moving between, or working in, their respective territories;

Wishing to ensure that persons from both countries shall enjoy equal rights in respect of matters covered by this Convention under their respective social security 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 text provides otherwise:

"competent authority" means—

(i) in relation to the territory of the United Kingdom, the Department of Social Security for Great Britain, the Commissioners of Inland Revenue or their authorised representative, the Department of Health and Social Services 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

(ii) in relation to the Republic of Korea, the Ministry of Health and Welfare;

"employed person" means—

(i) in relation to Great Britain, Northern Ireland or the Isle of Man, 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) in relation to Jersey and Guernsey, a person who, in the applicable legislation, comes within the definition of an employed or self-employed person, and

(iii) in relation to the Republic of Korea, a person who, in the applicable legislation, comes within the definition of an employed person,

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;

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

"insured" means—

(i) 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, and,

(ii) in relation to the Republic of Korea, that contributions have been paid by, or are payable by, the person concerned, or have been exempted from payment in respect of the person concerned;

"Jersey" means the Island of Jersey;

"legislation" means, in relation to a Party, such of the legislation specified in Article 2 as applies in the territory of a Party or, in relation to the United Kingdom, in any part of the territory of the United Kingdom;

"Party" means—

(i) the United Kingdom, and

(ii) the Republic of Korea;

"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" means any ship 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;

"United Kingdom" means Great Britain and Northern Ireland, and, where the context of this Convention requires, also the Isle of Man, Jersey and Guernsey and, similarly, references to "territory" in relation to the United Kingdom shall, where the context requires, mean also the Isle of Man, Jersey and Guernsey.

(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

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 and the Social Security (Consequential Provisions) Act 1992;

(ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Consequential Provisions) (Northern Ireland) Act 1992;

(iii) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992 and the Social Security (Consequential Provisions) Act 1992 (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 1982 (an Act of Tynwald);

(iv) the Social Insurance (Guernsey) Law, 1978;

(v) the Social Security (Jersey) Law, 1974;

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 the Republic of Korea, to the National Pension Act 1986 and its enforcement rules and regulations.

(2) 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 not apply to:

(a) the legislation on social security adopted by the Council, or the Council and the Parliament, of the European Community, or

(b) legally binding provisions on social security contained in agreements between the European Community, its Member States and a third country, or adopted pursuant to such an agreement, or

(c) 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 from taking into account under its legislation the provisions of any other social security convention which that Party has concluded with a third country.

Article 3

Equal Treatment

(1) A person 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.

(2) Paragraph (1) shall not apply to lump sum refunds of contributions which would otherwise be paid in accordance with Article 102 of the National Pension Act of the Republic of Korea.

Part II

PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE CONCERNING CONTRIBUTION LIABILITY

Article 4

General Provisions

(1) Subject to paragraphs (2) to (4) and Articles 5 to 8, where a person is employed in the territory of one Party, liability for contributions for him shall be determined under the legislation of that Party, and that legislation shall apply to him as if he were ordinarily resident in the territory of that Party.

(2) Where a person is employed in the territory of both Parties for the same period, liability for contributions for him shall be determined only under the legislation of the Party in whose territory he is ordinarily resident.

(3) Where a person is ordinarily resident in the territory of one Party and is self-employed in the territory of the other Party, or in the territory of both Parties, liability for contributions for him shall be determined only under the legislation of the Party in whose territory he ordinarily resides and that legislation shall apply to him as if he were self-employed in the territory of that Party.

(4) Where a person is employed in the territory of one Party and self-employed in the territory of the other Party for the same period, liability for contributions for him shall be determined only under the legislation of the Party in whose territory he ordinarily resides.

(5) Where, under Articles 5 and 6, a person is employed in the territory of one Party while remaining liable for contributions under the legislation of the other Party, the legislation of the former