STATUTORY RULES OF NORTHERN IRELAND

1998 No. 39

SOCIAL SECURITY

The Social Security (Contributions and Industrial Injuries) (Canada) Order (Northern Ireland) 1998

Made - - - -	*11th February 1998*
Coming into operation	*1st April 1998*

In exercise of the powers conferred on me by section 155(1) 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 and Industrial Injuries) (Canada) Order (Northern Ireland) 1998 and shall come into operation on 1st April 1998.

(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 Canada, which was signed on behalf of those Governments at London on 16th January 1997.

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.

Marjorie Mowlam
One of Her Majesty's Principal Secretaries of State

Dated this 11th day of February 1998.

(**1**) 1992 c. 8
(**2**) *See*Cm 3582
(**3**) 1992 c. 7

SCHEDULE Article 2

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

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

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

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Definitions

(1) For the purpose of this Convention, the following definitions apply:—

"benefits for industrial accidents and industrial diseases" means, in relation to the United Kingdom, 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;

"competent authority" means:—

(i) in relation to the United Kingdom, the Department of Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland and the Department of Health and Social Security of the Isle of Man, as the case may require, and

(ii) in relation to Canada, the Minister or Ministers responsible for the application of the legislation of Canada;

"employed person" means:—

(i) in relation to the United Kingdom, a person who is, or who is treated as being, an employed earner or an employed person under the legislation of the United Kingdom, and

(ii) in relation to Canada, an employee, as defined in the Canada Pension Plan,

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;

"Government Service" means:—

(i) in relation to the United Kingdom, employment by the Government of the United Kingdom, and includes employment in the service of any public corporation of the United Kingdom, and

(ii) in relation to Canada,

(a) employment by the Government of Canada, including employment as a member of the Canadian Forces or the Royal Canadian Mounted Police, but not including employment as an employee engaged locally outside Canada, and

(b) employment by the government, agent or municipal corporation of a province of Canada;

"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 Canada, that contributions have been paid, or are payable, by the person concerned under the Canada Pension Plan or, as the case may require, the comprehensive pension plan of a province of Canada;

"legislation" means, in relation to a Party, such of the legislation specified in Article 2 as applies in that Party;

"Party" means the United Kingdom or Canada;

"self-employed person" means:—

(i) in relation to the United Kingdom, a person who comes within the definition of a self-employed earner or of a self-employed person under the legislation of the United Kingdom, or is treated as such, and

(ii) in relation to Canada, a person with self-employed earnings, as defined in the Canada Pension Plan,

and the words "person is self-employed" shall be construed accordingly;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland and also the Isle of Man.

(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 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),

and the legislation which was repealed or consolidated by those Acts or Orders or repealed by legislation consolidated by them;

(b) in relation to Canada, to:—

(i) the Old Age Security Act and the regulations made thereunder, and

(ii) the Canada Pension Plan and the regulations made thereunder.

(2) Subject to paragraph (3), 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 the legislation on social security adopted by the Council, or the Council and the Parliament, of the European Community, or to 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 to any convention on social security which the United Kingdom 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.

Article 3

Equal Treatment

A person who is or who has been subject to the legislation of a Party, and the dependants and survivors of such a person, shall be subject to the obligations of the legislation of the other Party and shall be eligible for the benefits of that legislation under the same conditions as nationals or citizens, as the case may be, of the latter Party.

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 7, where a person is employed, liability for contributions for him or her shall, in respect of that employment, be determined only under the legislation of the Party in whose territory he or she is so employed. Where a person is subject only to the legislation of the United Kingdom in accordance with this paragraph, that legislation shall apply to him or her as if he or she were ordinarily resident in the territory of the United Kingdom.

(2) 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 or her shall, in respect of that self-employment, be determined only under the legislation of the Party in whose territory he or she ordinarily resides. Where a person is subject only to the legislation of the United Kingdom in accordance with this paragraph, that legislation shall apply to him or her as if he or she were a self-employed earner in the territory of the United Kingdom but without imposing any liability in respect of profits or gains immediately derived from such employment in Canada.

(3) Where a person is employed in the territory of one Party and self-employed in the territory of the other Party for the same activity, liability for contributions for him or her shall, in respect of that activity, be determined only under the legislation of the Party in whose territory he or she ordinarily resides.

(4) Where, under Article 5, a person is employed in the territory of the United Kingdom while remaining liable for contributions under the legislation of Canada, the legislation of the United Kingdom shall not apply to him or her and he or she shall not be liable, nor entitled, to pay contributions under the legislation of the United Kingdom.

Article 5

Detached Workers

Subject to Articles 6 and 7, where a person compulsorily insured under the legislation of one Party, and employed by an employer with a place of business in the territory of that Party, is sent by that employer, either from the territory of that Party, or from a third country not party to this Convention, to work in the territory of the other Party, the legislation of the former Party concerning liability for