1989 No. 428

SOCIAL SECURITY

The Social Security (Philippines) Order (Northern Ireland) 1989

Made	*1st November 1989*
Coming into operation	*1st December 1989*

In exercise of the powers conferred on me by section 134 of the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling me in that behalf, I hereby make the following order:

Citation and commencement

1. This order may be cited as the Social Security (Philippines) Order (Northern Ireland) 1989 and shall come into operation on 1st December 1989.

Modification of the Social Security (Northern Ireland) Act 1975

2. The Social Security (Northern Ireland) Act 1975 shall be modified to such extent as may be required to give effect to the provisions contained in the Convention on Social Security set out in the Schedule to this order, so far as the same relate to Northern Ireland.

Dated this 1st day of November 1989.

P. L. Brooke
One of Her Majesty's Principal
Secretaries of State

(**a**) 1975 c.15; section 134 was amended by section 20(3) of, and extended by section 20(4) of, the Social Security (Miscellaneous Provisions) Act 1977 (c.5), and further amended by Article 7(1) of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I.25)) and Article 66(2) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

Convention on Social Security Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of the Philippines

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

Being resolved to co-operate in the field of social affairs and, in particular, in the matter of social security;

Desirous of promoting the welfare of persons moving between or working in their respective territories;

Desirous of ensuring that persons from both countries shall enjoy equal rights under their respective social security legislation;

Desirous of making arrangements for insurance periods completed under the legislation of the Contracting Parties to be added together for the purpose of determining the right to receive benefit;

Desirous further of making arrangements enabling persons moving between their respective territories to keep the rights which they have acquired under the legislation of the one Party or to enjoy corresponding rights under the legislation of the other;

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

(1) For the purpose of this Convention:

(*a*) "the Philippines" means the Republic of the Philippines;

(*b*) "legislation" means, in relation to a Party, such of the legislation specified in Article 2 of this Convention as applies in the territory of that Party or in any part thereof;

(*c*) "competent authority" means the authority responsible for the social security schemes in all or part of the territory of each Party; in relation to the Philippines, the Social Security System, and, in relation to the United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland or the Isle of Man Board of Social Security, as the case may require;

(*d*) "insurance authority" means the authority competent to decide entitlement to the benefit in question;

(*e*) "competent institution" means the authority from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that authority is situated;

(*f*) "insured" means, in relation to the Philippines, that contributions have been paid, or are payable by, or are considered to have been paid in respect of, the person concerned, and, 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;

(*g*) "insurance period" means, in relation to the Philippines, a contribution period, and, in relation to the United Kingdom, a contribution period or an equivalent period;

(*h*) "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 in question;

(*i*) "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;

(*j*) "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;

(*k*) "pension" or "benefit" includes any increase of, or any additional amount payable with, a pension or benefit, respectively;

(*l*) "invalidity pension" means, in relation to the Philippines, a disability benefit, payable to a person who is totally or partially disabled, other than a disability pension payable in respect of disablement resulting from an industrial accident or disease;

(*m*) "old age pension" means, in relation to the United Kingdom, a retirement pension payable under the legislation of that Party;

(*n*) "survivor's benefit" means, in relation to the Philippines, a survivor's pension other than a lump sum payment, and, in relation to the United Kingdom, widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of that Party;

(*o*) "industrial disablement pension" means a pension or benefit payable to a person for loss of physical or mental faculty as a result of an accident or disease arising out of and in the course of employment, other than a mobility allowance payable under the legislation of the United Kingdom;

(*p*) "benefit for industrial accidents and diseases" includes, in relation to the United Kingdom, sickness benefit or invalidity pension where either of these is payable under the legislation of that Party in respect of an industrial accident or an industrial disease;

(*q*) "gainfully occupied" means being an employed or self-employed person;

(*r*) "employed person" means a person who comes within the definition of an employed person or of an employed earner or a person who is treated as such in the applicable legislation and the words "person is employed" shall be construed accordingly;

(*s*) "employment" means employment as an employed person and the words "employ", "employed" or "employer" shall be construed accordingly;

(*t*) "self-employed person" means a person who comes within the definition of a self-employed person or of a self-employed earner or a person who is treated as such in the applicable legislation and the words "person is self-employed" shall be construed accordingly.

(2) Other words and expressions which are used in this Convention have the meanings respectively assigned to them in the legislation concerned.

(3) The present Covention applies also to the Isle of Man and references to "the United Kingdom" or to "territory" in relation to the "United Kingdom" shall be construed accordingly.

Article 2

(1) The provisions of this Convention shall apply,

(*a*) in relation to the Philippines, to:

(i) Social Security Law (RA 1161, as amended);

(ii) Social Security Commission Resolution of 1981, 1982 and 1984 approved by the President of the Philippines;

(*b*) in relation to the United Kingdom, to:

(i) the Social Security Acts 1975 to 1984 and the Social Security (Northern Ireland) Acts 1975 to 1984;

(ii) the Social Security Acts 1975 to 1984 (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 to the legislation which was consolidated by those Acts or Orders or repealed by legislation consolidated by them.

(2) Subject to the provisions of paragraphs (3), (4) and (5) of this Article, this Convention shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) This Convention shall apply, unless the Parties agree otherwise, only to benefits described in the legislation specified in paragraph (1) of this Article at the date of coming into force of this Convention and for which specific provision is made in this Convention.

(4) This Convention shall apply to any legislation which relates to a branch of social security not covered by the legislation specified in paragraph (1) of this Article only if the two Parties make an agreement to that effect.

(5) This Convention shall not apply to legislation on social security of the Institutions of the European Communities nor to any convention on social security which either Party has concluded with a third party nor to any laws or regulations which amend the legislation specified in paragraph (1) of this Article 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 convention which that Party has concluded with a third party.

Article 3

A person subject to the legislation of one Party who becomes resident in the territory of the other Party shall, together with his dependants, be subject to the obligations and shall enjoy the advantages of the legislation of the other Party under the same conditions as a national of that Party, subject to any special provision of this Convention.

Article 4

(1) Subject to the provisions of paragraph (2) of this Article, a person who would be entited to receive an old age pension, survivor's benefit, or an industrial disablement pension under the legislation of one Party if he were in the territory of that Party shall be entitled to receive that pension or benefit while he is in the territory of the other Party, as if he were in the territory of the former Party.

(2) A person who is entitled to receive an old age pension or survivor's benefit under the legislation of the United Kingdom and who would be entitled to an increase in the rate of that pension or benefit if he were in the territory of that Party shall, after the date of coming into force of this Convention, be entitled to receive any such increase prescribed on or after that date by that legislation, if he is in the territory of the Philippines, but nothing in this paragraph shall confer entitlement to receive any such increases prescribed before that date by that legislation.

(3) Subject to Article 14 of this Convention, where under the legislation of one Party an increase of any of the benefits for which specific provision is made in this Convention would be payable for a dependant if he were in the territory of that Party, it shall be payable while he is in the territory of the other Party.

PART II

PROVISIONS WHICH DETERMINE THE CONTRIBUTION LEGISLATION APPLICABLE

Article 5

(1) Subject to the following provisions of this Article and the provisions of Articles 6 to 8 of this Convention, where a person is gainfully occupied, his liability to be insured shall be determined under the legislation of the Party in whose territory he is so occupied.

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

(3) Where a person is self-employed in the territory of both Parties for the same period, his liability to be insured shall be determined under the legislation of the Party in whose territory he is ordinarily resident.

(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, his liability to be insured shall be determined only under the legislation of the former Party.

(5) For the purposes of the provisions of paragraphs (3) and (4) of this Article, "liability to be insured" shall not include liability to pay a Class 4 contribution under the legislation of the United Kingdom.

Article 6

(1) Where a person who is insured under the legislation of one Party and is employed by an employer in the territory of that Party is sent by that employer to work in the territory of the other Party, the legislation of the former Party concerning liability for contributions shall continue to apply to him for the first three years of that employment as if he were employed in the territory of that Party. No contributions shall be payable in respect of his employment under the legislation of the latter Party. Where for unforeseen reasons his employment in the territory of the latter Party continues after such period of three years the legislation of the former Party shall continue to apply to him for any further period of not more than one year, provided that the competent authority of the latter Party agrees thereto before the end of the first period of three years.

(2) Where a person is gainfully occupied in the United Kingdom and the legislation of the Philippines does not apply to him in accordance with paragraph (1) of this Article or Article 5 of this Convention, the legislation of the United Kingdom shall apply to him as if he were ordinarily resident in the United Kingdom.

(3) The following provisions shall apply to any person employed as a member of the travelling personnel of an undertaking engaged in the transport of passengers or goods by air, whether for another undertaking or on its own account:

(*a*) subject to the provisions of sub-paragraphs (*b*) and (*c*) of this paragraph, where a person is employed by an undertaking which has its principal place of business in the territory of one Party, the legislation of that Party concerning liability for contributions shall apply to him as if he were employed in its territory, even if he is employed in the territory of the other Party;

(*b*) subject to the provisions of sub-paragraph (*c*) of this paragraph, where the undertaking has a branch or agency in the territory of one Party and a person is employed by that branch or agency, the legislation of that Party concerning liability for contributions shall apply to him;