1985 No. 205

SOCIAL SECURITY

The Social Security (Iceland) Order (Northern Ireland) 1985

Made	*31st July 1985*
Coming into operation . . .	*1st August 1985*

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 (Iceland) Order (Northern Ireland) 1985 and shall come into operation on 1st August 1985.

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 31st day of July 1985.

Douglas Hurd
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 (1977 c. 5), and subsection (1A) of section 134 was inserted by Article 7(1) of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25))

SCHEDULE

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

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

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 making arrangements for insurance periods completed under the legislation of the 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*) "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;

(*b*) "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 United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland, the Isle of Man Board of Social Security and the Social Security Committee of the States of Jersey as the case may require, and, in relation to Iceland, the Ministry for Health and Social Security;

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

(*d*) "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;

(*e*) "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, or for the purposes of Articles 12 to 14 of this Convention, that the person is, or is treated as being, an employed person;

(*f*) "insurance period" means, in relation to the United Kingdom, a contribution period or an equivalent period and, in relation to Iceland, a period during which a person has been insured in respect of the contingency for which benefit is being claimed;

(*g*) "contribution period" means a period in respect of which contributions appropriate to the benefit in question are payable, have been paid or have been treated as paid under the legislation in question;

(*h*) "equivalent period" means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited;

(*i*) "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 of the United Kingdom or Iceland;

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

(*k*) "sickness benefit" means, in relation to Iceland, *per diem* sickness benefit;

(*l*) "invalidity pension" means, in relation to the United Kingdom, invalidity benefit, other than non-contributory invalidity pension, and, in relation to Iceland, invalidity pension and invalidity grant;

(*m*) "old age pension", in relation to the United Kingdom, includes a retirement pension and, in relation to Iceland, means a basic old age pension;

(*n*) "widow's benefit" means, in relation to the United Kingdom, widow's allowance, widowed mother's allowance and widow's pension and, in relation to Iceland, widow's or widower's benefit and widow's pension;

(*o*) "orphan's benefit" means, in relation to the United Kingdom, guardian's allowance and child's special allowance;

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

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

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

(*s*) "self-employed person" means a person who comes within the definition of a self-employed person 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 Convention applies also to the Isle of Man and Jersey, and references to "the United Kingdom" or to "territory" in relation to the United Kingdom shall be construed accordingly, where appropriate.

ARTICLE 2

(1) The provisions of this Convention shall apply,

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

(i) the Social Security Acts 1975 to 1982 and the Social Security (Northern Ireland) Acts 1975 to 1982;

(ii) the Social Security Acts 1975 to 1982 (Acts of Parliament) as applied to the Isle of Man by Orders made under the provisions of the Social Security Legislation (Application) Act 1974 (an Act of Tynwald);

(iii) the Social Security (Jersey) Law 1974;

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

(*b*) in relation to Iceland, to:

(i) the National Insurance Act No 67/1971, as amended;

(ii) the Unemployment Insurance Act No 64/1981.

(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 Regulations on social security of the Council of the European Communities or to 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) 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

(1) Subject to the provisions of Articles 13, 14 and 29 of this Convention, a person who would be entitled to receive an old age pension, widow's benefit, invalidity pension, or any pension, benefit, allowance or gratuity payable in respect of an industrial injury, industrial disease or industrial death under the legislation of one Party if he were in the territory of that Party shall be entitled to receive that pension, benefit, allowance or gratuity while he is in the territory of the other Party, as if he were in the territory of the former Party. For the purposes of this Article only, the term "old age pension" in relation to Iceland means basic old age pension and benefits payable from Iceland's contibutory old age pension funds, and "allowance payable in respect of an industrial injury or industrial disease" payable under the legislation of the United Kingdom shall include all such allowances and additions other than special hardship allowance payable under the legislation of that Party.

(2) 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.

(3) For the purposes of this Article, "old age pension" and "invalidity pension" payable under the legislation of Iceland shall not include guaranteed income or household supplement payable under the legislation of Iceland.

PART II

PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE

ARTICLE 4

(1) Subject to the following provisions of this Article and the provisions of Articles 5 to 7 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 5

(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 fifty-two weeks of his employment in the territory of the latter Party as if he were employed in the territory of the former Party. Where his employment in the territory of the latter Party continues after such period of fifty-two weeks, the legislation of the former Party shall continue to apply to him for any further period of not more than fifty-two weeks, provided that the competent authority of the latter Party agrees thereto before the end of the first period of fifty-two weeks.

(2) Where a person having come from Iceland is gainfully occupied in the United Kingdom and the legislation of Iceland does not apply to him in accordance with paragraph (1) of this Article or Article 4 of this Convention, the legislation of the United Kingdom shall apply to him as if he were ordinarily resident in the United Kingdom.

ARTICLE 6

(1) This Convention shall not apply to persons who are exempted from the social security law of the country in which they are present or resident by virtue of the Vienna Conventions on Diplomatic or Consular Relations.

(2) Subject to the provisions of paragraph (1) of this Article, where any person, who is in the Government Service of one Party or in the service of any public corporation of that Party, is employed in the territory of the other Party, the legislation of the former Party concerning liability for contributions shall apply to him as if he were employed in its territory.

(3) Subject to the provisions of paragraphs (1) and (2) of this Article, where a person is employed in a diplomatic mission or consular post of one Party in the territory of the other Party, or in the private service of an official of such a mission or post, the legislation of the latter Party concerning liability for contributions shall apply to him as if he were employed in its territory unless within three months of the entry into force of this Convention, or within three months of the beginning of the employment in the territory of the latter Party, whichever is later, he chooses to be insured under the legislation of the former Party, provided that he was so insured immediately before the commencement of the employment at that mission or post.

ARTICLE 7

The competent authorities of the Parties may agree to modify the application of the provisions of Articles 4 to 6 of this Convention in respect of particular persons or categories of persons.

PART III

SPECIAL PROVISIONS

SECTION 1

SPECIAL PROVISIONS RELATING TO THE APPLICATION OF THE LEGISLATION OF THE UNITED KINGDOM AND ICELAND

ARTICLE 8

(1) Subject to paragraph (5) of this Article, for the purpose of calculating entitlement, under the legislation of the United Kingdom, to an old age pension in accordance with Article 16 of this Convention or to widow's benefit in accordance with Article 18, each week during which a person was domiciled in Iceland shall be treated as if it were a week for which that person had paid a voluntary Class 3 contribution under the legislation of the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this Article, for the purpose of calculating an earnings factor for the purpose of calculating entitlement, under the legislation specified in Article 2(1)(*a*)(i) and (ii) of this Convention, to sickness benefit in accordance with Article 9 of this Convention or to unemployment benefit in accordance with Article 11, a person shall be treated for each week beginning in a relevant tax year, the whole of which week was a week of employment completed in employment in Iceland, as having paid a Class 1 contribution as an employed person under the legislation of the United Kingdom on earnings equivalent to two-thirds of that year's upper earnings limit.

(3) Any additional component payable with invalidity benefit under the legislation of the United Kindom shall be based solely on insurance periods completed under United Kingdom legislation, and contributions treated as paid by virtue of paragraph (2) of this Article shall not be taken into account in assessing the amount of additional component.

(4) For the purpose of calculating an earnings factor for the purpose of calculating entitlement to sickness benefit in accordance with Article 9 under the legislation specified in Article 2(1)(*a*)(i) and (ii) of this Convention, each week for which a person has been insured as a self-employed person under the legislation of Iceland shall be treated as if it were a week for which that person had paid a Class 2 contribution as a self-employed person under the legislation of the United Kingdom.

(5) For the purpose of calculating a contribution factor to establish entitlement under the legislation specified in Article 2(1)(*a*)(iii) of this Convention to old age pension in accordance