1983 No. 387

SOCIAL SECURITY

The Social Security (Cyprus) Order (Northern Ireland) 1983

Made . . . . . *24th November 1983*

Coming into operation . . . *1st January 1984*

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 (Cyprus) Order (Northern Ireland) 1983 and shall come into operation on 1st January 1984.

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.

Revocation and Variation of Orders

3.—(1) The National Insurance and Industrial Injuries (Cyprus) Order (Northern Ireland) 1969(**b**) is hereby revoked.

(2) In Part I of Schedule 1 to the Social Security (Reciprocal Agreements) (Northern Ireland) Order 1976(**c**) the entry relating to the said order of 1969 shall be omitted.

(3) In the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1979(**d**) the entry relating to the said order of 1969 shall be omitted.

Dated this 24th day of November 1983

James Prior
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))

(**b**) S.R. & O. (N.I.) 1969 No. 317

(**c**) S.I. 1976/1044

(**d**) S.R. 1979 No. 92

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 CYPRUS

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

Having established reciprocity in the field of social security by means of the Agreement between them on Social Insurance signed at Nicosia on 6 October 1969;

Desiring 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

(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, the Social Security Committee of the States of Jersey or the States of Guernsey Insurance Authority as the case may require, and, in relation to the Republic of Cyprus, the Director of Social Insurance Services;

(*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, 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 20 to 22 of this Convention, that the person is, or is treated as being, an employed person;

(*f*) "insurance period" means a contribution period or an equivalent period;

(*g*) "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;

(*h*) "equivalent period" means, a period for which contributions appropriate to the benefit in question have been credited under the legislation concerned;

(*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 concerned;

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

(*k*) "invalidity pension" means, in relation to the United Kingdom, invalidity benefit, other than non-contributory invalidity pension, payable under the legislation of that Party, and in relation to the Republic of Cyprus, invalidity pension payable under the legislation of Cyprus;

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

(*m*) "widow's benefit" means, in relation to the United Kingdom, widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of

that Party and, in relation to the Republic of Cyprus, a widow's pension payable under the legislation of Cyprus;

(*n*) "orphan's benefit" means, in relation to the United Kingdom, guardian's allowance payable under the legislation of that Party and, in relation to the Republic of Cyprus, orphan's benefit payable under the legislation of Cyprus;

(*o*) "death grant" means, in relation to the Republic of Cyprus, a funeral grant payable under the legislation of that Party;

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

(*q*) "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;

(*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 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;

(*t*) "territory" means, in relation to Cyprus, the Island of Cyprus with the exception of the Sovereign Base Areas and, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland, the Isle of Man, Guernsey, Jersey, Alderney, Herm and Jethou; and references to "Cyprus" and to "the United Kingdom" shall be construed accordingly;

(*u*) "Sovereign Base Areas" means the British Sovereign Base Areas of Akrotiri and Dhekelia.

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

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 1981 and the Social Security (Northern Ireland) Acts 1975 to 1981;

(ii) the Social Security Acts 1975 to 1981 (Acts of Parliament) as applied to the Isle of Man by orders made under the provisions of the Social Security Legislation (Application) Acts 1974 and 1980 (Acts of Tynwald);

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

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

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

(*b*) in relation to Cyprus to:

the Social Insurance Laws of 1980 and 1982.

(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

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 Articles 15 to 23 of this Convention, a person who would be entitled to receive an old age pension, widow's benefit, invalidity pension, or any pension, allowance or gratuity payable in respect of an industrial injury or industrial disease 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, or in the Sovereign Base Areas, as if he were in the territory of the former Party.

(2) Where under the legislation of one Party, an increase of any benefit 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 or in the Sovereign Base Areas.

PART II

Provisions which Determine the Legislation Applicable

ARTICLE 5

(1) Subject to the following provisions of this Article and the provisions of Articles 6 to 10 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.

(6) Where a person is not gainfully occupied, any liability to be insured shall be determined under the legislation of the Party in whose territory he is ordinarily resident.

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 temporarily 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 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, 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 Cyprus 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;

(*c*) where a person is ordinarily resident in the territory of one Party and is employed wholly or mainly in that territory, the legislation of that Party concerning liability for contributions shall apply to him, even if the undertaking which employs him does not have its principal place of business or branch or any agency in that territory.

ARTICLE 7

(1) For the purpose of this Article, "ship or vessel" means, in relation to a Party, a ship or vessel (other than a ship or vessel belonging to Her Majesty) which is owned in the territory of that Party or any other ship or vessel which is registered in that territory and not owned in the territory of the other Party; and a ship or vessel shall be deemed to be owned in one (or the other) territory if the owner or, where there is more than one owner, the managing owner or manager resides or has his principal place of business in that territory.

(2) Subject to the provisions of paragraphs (3), (4), (5) and (6) of this Article, where a person is employed on board any ship or vessel of one Party, the legislation of that Party concerning liability for contributions shall apply to him as if any conditions relating to residence were satisfied in his case, provided that he is ordinarily resident in the territory of either Party.

(3) Where a person who is insured under the legislation of one Party and employed either in the territory of that Party or on board any ship or vessel of that Party, is sent by an employer in the territory of that Party to work temporarily on board a ship or vessel 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. No contributions shall be payable in respect of his employment under the legislation of the latter Party. Where his employment on board the ship or vessel of the latter Party continues after such period of three years, the legislation of the former Party shall continue to apply to him provided that the competent authority of the latter Party agrees thereto before the end of the first period of three years.

(4) Where a person who is not normally employed at sea is employed other than as a member of the crew, on board a ship or vessel of one Party, in the territorial waters of, or at port of, the other Party, the legislation of the latter Party concerning liability for contributions shall apply to him as if any conditions relating to residence were satisfied in his case, provided that he is ordinarily resident in the territory of either Party.

(5) Where a person who is ordinarily resident in the territory of one Party and employed on board any ship or vessel of the other Party is paid remuneration in respect of that employment by a person who is ordinarily resident in, or by an undertaking having its principal place of business in, the territory of the former Party, the legislation of the former Party concerning liability for contributions shall apply to him as if the ship or vessel were a ship or vessel of the former Party, and the person or undertaking by whom the remuneration is paid shall be treated as the employer for the purposes of such legislation.

(6) If a person is employed as a master or member of the crew of any ship or vessel belonging to Her Majesty which is stationed in Cyprus, and is not a member of any of the Armed Forces of the United Kingdom, he shall be insured in relation to that employment:

(*a*) only under the legislation of the United Kingdom if he is ordinarily resident in the United Kingdom;

(*b*) only under the legislation of Cyprus if he is ordinarily resident in Cyprus.