1978 No. 327

SOCIAL SECURITY

The Social Security (Jersey and Guernsey) Order (Northern Ireland) 1978

Made . . . . . 30*th October* 1978
Coming into operation . . . 6*th November* 1978

In exercise of the powers conferred on me by section 134(1) of the Social Security (Northern Ireland) Act 1975(**a**), as amended by section 20(3) of, and extended by section 20(4) of, the Social Security (Miscellaneous Provisions) Act 1977(**b**), 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 (Jersey and Guernsey) Order (Northern Ireland) 1978 and shall come into operation on 6th November 1978.

(2) Any reference in this order to any provision made by, or contained in, any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument, and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**c**) shall apply for the purposes of the interpretation of this order and the revocation effected by it as they would apply if this order and the Order which it revokes were Acts of Parliament and the revocation were a repeal.

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 Agreement 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 (Jersey and Guernsey) Order (Northern Ireland) 1972(**d**) is hereby revoked.

(2) In Part II of Schedule 1 to the Social Security (Reciprocal Agreements) (Northern Ireland) Order 1976(**e**) the reference to the said Order of 1972 shall be omitted.

Dated this 30th day of October 1978.

Roy Mason
One of Her Majesty's Principal Secretaries of State

(a) 1975 c. 15
(b) 1977 c. 5
(c) 1889 c. 63
(d) S.R. & O. (N.I.) 1972 No. 320 (p. 1590)
(e) S.I. 1976/1044 (1976 II, p. 2752)

SCHEDULE Article 2

Agreement on Social Security between the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland and the Lieutenant-Governor of the Isle of Man, with the advice and consent of the Isle of Man Board of Social Security constituted under the Isle of Man Board of Social Security Act 1970, of the first part, the Social Security Committee, with the consent of the States of Jersey, of the second part, and the States Insurance Authority, with the consent of the States of Guernsey, of the third part.

PART I: DEFINITIONS AND SCOPE

ARTICLE 1

(1) For the purpose of the present Agreement, unless the context otherwise requires—

(*a*) "country" means the United Kingdom and the Isle of Man, Jersey or Guernsey, as the case may require;

(*b*) "Guernsey" includes the Islands of Alderney, Herm and Jethou;

(*c*) "legislation" means, in relation to any country, the legislation of that country specified in Article 2 of the present Agreement;

(*d*) "competent authority" means—

(i) in relation to the United Kingdom and the Isle of Man, 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;

(ii) in relation to Jersey, the Social Security Committee;

(iii) in relation to Guernsey, the States Insurance Authority;

(*e*) "statutory adoption" means—

(i) in relation to the United Kingdom and the Isle of Man, adoption within the meaning of the Adoption Acts 1958 and 1968, the Adoption Act (Northern Ireland) 1967, the Adoption (Hague Convention) Act (Northern Ireland) 1969 or the Adoption Acts 1962 and 1965 of the Isle of Man as the case may require;

(ii) in relation to Jersey, adoption within the meaning of the Adoption (Jersey) Laws 1961 to 1965;

(iii) in relation to Guernsey, adoption within the meaning of the Adoption (Guernsey) Law 1960;

(*f*) "fund" means—

(i) in relation to the United Kingdom and the Isle of Man, the National Insurance Fund, the Northern Ireland National Insurance Fund or the Manx National Insurance Fund, as the case may require;

(ii) in relation to Jersey, the Social Security Fund, and

(iii) in relation to Guernsey, the Guernsey Insurance Fund;

(*g*) "contribution of the appropriate class" means a contribution having effect for the purpose of the benefit in question;

(*h*) any reference to a contribution paid under the legislation of one country includes a reference to a contribution treated as paid under that legislation;

(*i*) "old age benefit" means retirement pension (other than graduated retirement benefit) under the legislation of the United Kingdom and the Isle of Man or old age pension under the legislation of Jersey or Guernsey;

(*j*) "standard rate of benefit" means in relation to any country, the rate of old age benefit or widow's benefit, as the case may be, which would be payable under the legislation of that country, if all the conditions for that benefit were fully satisfied.

(2) Other expressions have the meanings respectively assigned to them in the legislation of the United Kingdom and the Isle of Man, Jersey or Guernsey, as the case may require.

(3) Unless the context otherwise requires, any reference to a numbered Article is a reference to the Article of this Agreement bearing that number and any reference in an Article to a numbered paragraph is a reference to the paragraph of that Article bearing that number.

ARTICLE 2

(1) The provisions of the present Agreement shall apply—

(*a*) in relation to the United Kingdom and the Isle of Man, to the Social Security Act 1975, the Social Security (Northern Ireland) Act 1975 and the Social Security Act 1975 (an Act of Parliament) as applied to the Isle of Man by order made under the provisions of the Social Security Legislation (Application) Act 1974 (an Act of Tynwald);

(*b*) in relation to Jersey, to the Social Security (Jersey) Law 1974 and the Attendance Allowances (Jersey) Law 1973;

(*c*) in relation to Guernsey, to the Social Insurance (Guernsey) Law 1964 and the legislation repealed by that Law.

(2) Subject to the provisions of paragraphs (3) and (4) the present Agreement shall apply to any Act, Law, Ordinance, Measure, order or regulation which amends, supplements, replaces or consolidates the legislation specified in paragraph (1).

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

(4) The present Agreement shall apply, only if the Contracting Parties so agree, to any Act, Law, Ordinance, Measure, order or regulation which amends or supplements the legislation specified in paragraph (1) for the purpose of giving effect to any agreement providing for reciprocity with a scheme of social security in a fourth country.

PART II: CONTRIBUTIONS

Payment of Contributions

ARTICLE 3

(1) Where a person who is ordinarily resident in one country and is employed in that country in the service of an employer who is ordinarily resident there or has a place of business there goes in the course of that employment to work temporarily in another country, contributions in respect of that employment shall be payable under the legislation of the former country as if he were employed in that country and shall not be payable under the legislation of the latter country, provided that the employment in that country is not expected to last more than twelve months.

(2) The competent authority of the latter country may agree to apply the provisions of paragraph (1) for a further period not exceeding twelve months provided that the employment in that country is extended beyond twelve months duration for unforeseen reasons.

(3) Where a person in the service of the Government of the United Kingdom or the Isle of Man or in service in the employment of the States of Jersey or Guernsey goes in the course of that employment to work in another country and the provisions of paragraph (1) do not apply to him or have ceased to apply

to him, he shall be entitled to choose within three months of the beginning of that employment in the latter country or of the time when those provisions cease to apply to him that, as from the date on which he gives notice to the competent authority of the latter country, contributions in respect of that employment shall be payable under the legislation of the former country as if he were employed in that country and shall not be payable under the legislation of the latter country.

(4) The competent authorities of any two countries or of all three countries may agree that paragraph (3) shall apply to persons in the service of any public corporation of one country, being a public corporation designated by them, in the same way as it applies to persons in the Government service of that country.

(5) Where, by virtue of the provisions of paragraph (1) or (3), a person is relieved of the liability to pay a contribution for any period as an employed person or earner under the legislation of any country, he shall not be liable to pay any other contribution for that period under that legislation.

(6) (*a*) Where, but for the provisions of this paragraph, a person would be liable to pay contributions under the legislation of two or more countries, the following provisions shall apply—

(i) where a person is employed in two or more countries for the same period, he shall be subject to the legislation of the country in which he is ordinarily resident;

(ii) where a person is liable to pay a contribution in respect of his employment in one country and is liable to pay any other class of contribution for the same period under the legislation of another country, he shall be liable to pay a contribution only in respect of his employment;

(iii) where a person is liable to pay a contribution in respect of his self-employment in one country and liable to pay a contribution other than as an employed person or earner, as the case may be, under the legislation of another country for the same period, he shall be liable to pay a contribution as a self-employed person or self-employed earner, as the case may be, only under the legislation under which liability to pay such a contribution first arises in that period;

(iv) where a person is liable to pay a contribution other than as an employed or self-employed person or earner under the legislation of one country and such a contribution for the same period under the legislation of another country, he shall be liable to pay a contribution only under the legislation under which liability to pay a contribution first arises in that period.

(*b*) Where a person would have the right to pay contributions voluntarily under the legislation of two or more countries for the same period, he shall be entitled to pay such contributions only under the legislation of one of those countries, according to his choice.

(*c*) For the purpose of the provisions of this Article, "contribution" shall not include a Class 4 contribution payable under the legislation of the United Kingdom.

(7) A person who has paid a contribution for which he is liable for any period under the legislation of one country shall not be entitled to pay a contribution, for which he is not liable but which he may choose to pay, under the legislation of another country for the same period, provided that—

(*a*) this paragraph shall not apply to any such contributions which may be payable under the legislation of the United Kingdom or the Isle of Man in respect of any tax year commencing on or after 6 April 1975 during which he is liable to pay a contribution for any part of that year under the legislation of the United Kingdom or the Isle of Man;

(*b*) this paragraph shall not apply to a person who was insured under the legislation of Guernsey immediately before 4 January 1965 and who before that date had paid 156 contributions under that legislation and 156 voluntary contributions under the legislation of the other country concerned.

(8) For the purpose of calculating the yearly average of contributions under the legislation of Guernsey any contributions which a person has paid or had credited to him under that legislation for any contribution year after the contribution year which includes 4 April 1966 and before 1 October 1972 shall for the purpose of widow's benefit and old age benefit be disregarded insofar as they raise the sum of their number and the corresponding number for the same contribution year of another country above the number of weeks in that year, provided that this paragraph shall not apply to a person who was insured under the legislation of Guernsey immediately before 4 January 1965 and who before that date had paid 156 contributions under that legislation and 156 voluntary contributions under the legislation of the other country concerned.

(9) Where a person has paid contributions under the legislation of the United Kingdom or the Isle of Man and fully satisfied the contribution conditions for entitlement to old age benefit under the legislation of that country, he shall not be liable or entitled to pay a contribution as a non-employed person under the legislation of Guernsey.

ARTICLE 4

(1) For the purpose of those provisions of the legislation of one country which relate to mariners, airmen and the crew of hovercraft, a person who is domiciled or has a place of residence in another country shall be treated as if he were domiciled or has a place of residence in the former country.

(2) Where a person is ordinarily resident in one country and is employed either—

(*a*) as master or a member of the crew of a ship, vessel or hovercraft which is registered or owned in another country and engaged in regular trade between any two countries or all three countries; or

(*b*) as pilot, commander, navigator or member of the crew of an aircraft which is registered in another country and engaged in regular trade between any two countries or all three countries;

the legislation of the country in which he is ordinarily resident shall apply to him as if, as the case may be, the ship, vessel or hovercraft were registered or owned in that country or the aircraft were registered in that country, and contributions shall not be payable in respect of that employment under the legislation of any other country.

ARTICLE 5

The competent authorities of any two countries, or of all three countries, may agree to modify the provisions of paragraph (1) of Article 3 and paragraph (2) of Article 4 in particular cases.

Credited Contributions and Exception from Liability

ARTICLE 6

(1) For the purpose of determining whether a person is excepted from liability to pay a contribution for any period under the legislation of one country or entitled to have a contribution credited to him for that period under that legislation, any contribution which he has paid or had credited to him under the legislation of another country shall be treated as if it were, respectively, a contribution which he had paid or had credited to him under the legislation of the former country, and any employment he has had in the latter country shall be treated as if it were employment he had had in the former country.

(2) Where a woman is entitled to receive widow's benefit or old age benefit under the legislation of one country, the widow's benefit or old age benefit, as the case may be, shall be treated, for the purpose of determining whether she is liable or entitled to pay a contribution under the legislation of another country as if it were a widow's benefit which she was entitled to receive under the legislation of the latter country.