

FIRST SCHEDULE

Convention on Unemployment Insurance between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany

The United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany

Being resolved to cooperate in the social field,

Affirming the principle that the nationals of one Contracting Party should receive under the legislation of the other concerning unemployment insurance equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and of making arrangements enabling persons who go from the territory of the one Party to the territory of the other to keep the rights which they have acquired under the legislation of the former Party or to acquire corresponding rights under the legislation of the latter,

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

Have agreed as follows: —

PART I

Definitions and Scope

Article 1

For the purpose of the present Convention—

(1) “the United Kingdom” means the United Kingdom of Great Britain and Northern Ireland, and “the Federal Republic” means the Federal Republic of Germany;

(2) “territory” means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and the Isle of Man, and, in relation to the Federal Republic, the area in which the Basic Law for the Federal Republic of Germany is in force;

(3) “national” means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to the Federal Republic, a German within the meaning of the Basic Law for the Federal Republic;

(4) “legislation” means the legislation specified in Article 2 in force in any part of the territory of one (or the other) Contracting Party;

(5) “competent authority” means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland or the Isle

of Man Board of Social Services, as the case may require, and, in relation to the Federal Republic, the Federal Minister of Labour and Social Affairs;

(6) “insurance authority” means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland, the Isle of Man Board of Social Services or the statutory authorities appointed to determine questions under the legislation of the United Kingdom, as the case may require, and, in relation to the Federal Republic, the Federal Institute for Labour Placing and Unemployment Insurance;

(7) “employed person” means a person who comes within the definition of an employed person or a person who is treated as such in the legislation of one (or the other) Contracting Party; “employment” means employment as an employed person, and the words “employ” and “employer” refer to such employment;

(8) “dependant” means in relation to the United Kingdom, a person who would be treated as such for the purpose of any claim to receive benefit for a dependant under the legislation of the United Kingdom, and, in relation to the Federal Republic, a person who, for the purpose of the benefit in question, comes within the definition of a dependant in German legislation ;

(9) “vessel or aircraft” means, in relation to the United Kingdom, a sea-going ship or vessel, registered in the territory of the United Kingdom, or any other British sea-going ship or vessel of which the owner (or managing owner, if there is more than one owner) or manager resides or has his principal place of business in the territory of the United Kingdom, or an aircraft, registered in that territory, of which the owner (or managing owner, if there is more than one owner) resides or has his principal place of business in that territory; and, in relation to the Federal Republic, a seagoing ship which flies the Federal flag in accordance with German legislation or an aircraft which is included in the register of German aircraft.

Article 2

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

in relation to the United Kingdom, to the National Insurance Act, 1946, the National Insurance Act (Northern Ireland), 1946 ^{M1}, and the National Insurance (Isle of Man) Act, 1948 ^{M2};

in relation to the Federal Republic, to the legislation concerning unemployment insurance.

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

(3) The Convention shall apply to any legislation which extends the existing legislation to new classes of persons, unless, within three months of the date when information concerning the said legislation is given in accordance with the provisions of paragraph (b) of Article 13 of the Convention, the competent authority of one Contracting Party gives notice to the competent authority of the other Party that it shall not so apply,

(4) The Convention shall apply to legislation which amends or supplements the legislation specified in paragraph (1) of this Article for the purpose of giving effect to a reciprocal agreement concluded with one or more other countries, or a Regulation, promulgated by the European Economic Community, which is binding on one of the Parties, only if the two Parties make an agreement to that effect.

(5) Subject to the provisions of Article 5 of the Convention, the Convention shall apply to those members of the forces, members of the civilian component and their dependants, who are mentioned in the first sentence of paragraph (1) of Article 13 of the Agreement to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany, signed at Bonn on the 3rd August,

1959^{M3} in so far as that Agreement relates to the Forces of the United Kingdom and their civilian component, in the same way as the Convention applies to other persons.

Marginal Citations

- M1** 1946, c. 23 (N.I.).
- M2** Revised Statutes of I. of Man, Vol. XVII, p. 197.
- M3** “Miscellaneous No. 12 (1959)”, Cmnd. 852.

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PART II.

GENERAL PROVISIONS

Article 3

Subject to the provisions of Article 22 of the present Convention, a national of one Contracting Party shall be entitled to receive the benefits, and shall be subject to the obligations, of the legislation of the other Party under the same conditions as a national of the latter Party.

Article 4

(1) Subject to the provisions of paragraphs (2) and (3) of this Article and of Articles 5, 6 and 7 of the present Convention, where a national of either Contracting Party is employed in the territory of one Party, the legislation of that Party shall apply to his employment, even if his employer is ordinarily resident in the territory of the other Party or has his principal place of business in the territory.

(2) Where a person who is ordinarily resident in the territory of one Party and in the service of an employer who has a place of business or is ordinarily resident in that territory, is employed by that employer in the territory of the other Party, the legislation of the former Party shall apply to that person for a period of twelve months as if he were employed in the territory of the former Party. If his employment in the territory of the latter Party should continue after the first twelve months, the legislation of the former Party shall continue to apply to him for any period that may be specified, provided that the competent authority of the latter Party or any agency which it may nominate has agreed thereto before the end of the first twelve months.

(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 railway or road, whether for a third party or on its own account:

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

- (b) subject to the provisions of sub-paragraph (c) of this paragraph, if the undertaking has a branch or permanent representative in the territory of one Party and the person is employed by that branch or permanent representative, the legislation of that Party shall apply to him ;
- (c) if the person is ordinarily resident in the territory of one Party and is employed wholly or mainly in that territory, the legislation of that Party shall apply to him, even if the undertaking which employs him has no principal place of business or branch or permanent representative in that territory.

Article 5

(1) Article 4 of the present Convention and paragraphs (2) and (3) of this Article shall not apply to—

- (a) members of the forces of either Contracting Party ;
- (b) established members of the Foreign Service of the United Kingdom and career diplomats and career consular officers of the Federal Republic.

(2) Subject to the provisions of paragraphs (3) and (5) of this Article—

- (a) where a German national is employed in the territory of the United Kingdom in the service of the Federal Republic or of another public authority in the Federal Republic, German legislation shall apply to him as if he were employed in the territory of the Federal Republic in the place where the Government of the Federal Republic or the other public authority has its principal place of business ;
- (b) where a person is employed in the territory of the Federal Republic in the Government service of the United Kingdom or of Northern Ireland or in the service of a public corporation of the United Kingdom, the legislation of the United Kingdom shall apply to him as if he were employed in its territory.

(3) Where a German national is employed in the circumstances described in sub-paragraph (a) of paragraph (2) of this Article in the territory of the United Kingdom, and, in accordance with his contract of service, is employed for service with a specified office in the territory of the United Kingdom or a person is employed in the circumstances described in sub-paragraph (b) of paragraph (2) of this Article in the territory of the Federal Republic and his contract of service has been concluded by a person employed in the territory of the Federal Republic in the Government service of the United Kingdom or in the service of a public corporation of the United Kingdom—

- (a) the legislation of the Party in whose territory he is employed shall apply to him, unless and until he gives notice in accordance with the provisions of sub-paragraph (b) of this paragraph ;
- (b) he shall be entitled to choose within three months of the beginning of such employment or of the entry into force of the Convention, whichever is the later, that the legislation of the other Party shall apply to him ; if he so chooses—
 - (i) his choice shall take effect from the day on which he gives notice to his employer and the competent social security authority of the former Party;
 - (ii) from the day specified in paragraph (i) of this sub-paragraph, the legislation of the former Party shall cease to apply to him and the legislation of the latter Party shall apply to him as if he were employed in the territory of the latter Party;
 - (iii) if the latter Party is the Federal Republic, he shall be treated as if he were employed at the place where the Government of the Federal Republic or the other public authority has its principal place of business.

(4) If a person employed in any of the circumstances described in paragraphs (1), (2) and (3) of this Article employs in his personal service in the territory of one Party a national of the other Party, the provisions of paragraph (3) of this Article shall apply to that national.

(5) If a person is employed in the territory of one Party by the forces of the other Party in a civilian capacity or by an organisation serving those forces and is not ordinarily resident in that territory, then the legislation of the latter Party shall apply to him as if he were employed in its territory.

(6) The competent authorities of the Contracting Parties shall agree a list of the organisations to which the provisions of paragraph (5) of this Article shall apply.

(7) Paragraphs (2) and (3) of this Article shall not apply to persons employed in the personal service of an Honorary Consul.

Article 6

(1) Subject to the provisions of paragraph (2) of this Article, where a person who is ordinarily resident in the territory of one Contracting Party is employed on board a vessel or aircraft of the other Party, the legislation of the latter Party shall apply to him, as if any conditions relating to nationality or residence were satisfied.

(2) Where a person, who is ordinarily resident in the territory of one Party and employed temporarily on board any vessel or aircraft of the other Party, is paid remuneration in respect of that employment by a person who has a place of business in the territory of the former Party and who is not the owner of the vessel or the aircraft, the legislation of the former Party shall, in respect of that employment, apply to that person as if the vessel or aircraft were a vessel or aircraft of the former Party, and the person by whom the said remuneration is paid shall be treated as the employer for the purposes of such legislation.

Article 7

The competent authorities of the two Contracting Parties may agree that Articles 4, 5 and 6 of the present Convention shall not apply in whole or in part to particular employed persons, or to groups of such persons, if this is in the interest of those persons.

PART III

Provisions Concerning Benefit

Article 8

(1) Where a person, who has been employed in the territory of one Contracting Party, goes to the territory of the other Party and becomes employed there, otherwise than in contravention of any laws or regulations relating to the employment of aliens, in an employment which is subject, to compulsory insurance under the legislation of the latter Party, he shall, subject to the provisions of Articles 10 and 11 of the present Convention, be entitled to receive unemployment benefit under the legislation of the latter Party, if he satisfies the conditions for receiving such benefit laid down in that legislation.

(2) For the purpose of any claim which a person makes to receive unemployment-benefit under the legislation of the United Kingdom—

- (a) any period of employment completed by him which is compulsorily insurable under German legislation shall be treated as if it were a period during which he had paid contributions as an employed person under the legislation of the United Kingdom ;
- (b) any period during which he was entitled under German legislation to receive unemployment benefit or sickness benefit under sickness insurance shall be treated as if it were a period during which contributions were credited to him as an employed person under the legislation of the United Kingdom;
- (c) any period during which he was resident in the territory of the Federal Republic shall be treated as if it were a period during which he was resident in the territory of the United Kingdom.

(3) If a person, who has been employed in the territory of the Federal Republic, goes to the territory of the United Kingdom and becomes employed there, otherwise than in contravention of any laws or regulations relating to the employment of aliens, in an insurable employment under the legislation of the United Kingdom, and subsequently applies under that legislation for exception from liability to contribute and for contributions to be credited to him on grounds of unemployment, then, for the purpose of that application—

- (a) any period of employment completed by him which is compulsorily insurable under German legislation shall be treated as if it were a period during which he was employed in an employed contributor's employment and had paid contributions as an employed person under the legislation of the United Kingdom ;
- (b) any period during which he was entitled under German legislation to receive unemployment benefit or sickness benefit under sickness insurance shall be treated as if it were a period during which contributions were credited to him as an employed person under the legislation of the United Kingdom.

(4) For the purpose of any claim to receive unemployment benefit made under German legislation, any period during which contributions were paid by the person concerned as an employed person under the legislation of the United Kingdom shall be treated as if it were a period of compulsorily insurable employment completed under German legislation.

(5) For the purpose of applying the provisions of paragraphs (1), (2)(a), (2)(c), (3)(b) and (4) of this Article “unemployment benefit” means, in relation to the United Kingdom, unemployment benefit other than additional days of such benefit, as defined in the legislation of the United Kingdom, and, in relation to the Federal Republic, unemployment benefit as defined in German legislation, other than such benefit which is awarded by virtue of a period of employment which exceeded fifty-two weeks.

Article 9

(1) Where a national of either Contracting Party who is ordinarily resident in the territory of one Party and has been employed in the territory of the other Party in an employment which is subject to compulsory insurance under the legislation of that Party, becomes unemployed there and returns to the territory of the former Party, the provisions of Article 8 of the present Convention shall apply to him, even if he has not become employed in the territory of the former Party.

(2) A person to whom the provisions of this Article apply shall not be disqualified for receiving unemployment benefit under the legislation of the Party in whose territory he is ordinarily resident, on the sole ground that he has voluntarily left employment in the territory of the other Party in order to return to the territory of the former Party.

Article 10

Where a person claims unemployment benefit under the legislation of one Contracting Party by virtue of any of the provisions of Articles 8 and 9 of the present Convention—

- (a) any period during which he received such benefit under the legislation of the other Party during the period of twelve months before the date on which his claim is made shall be taken into account as if it were a period during which he had received such benefit under the legislation of the former Party;
- (b) subject to the provisions of paragraph (2) of Article 9 of the Convention, if he has been disqualified for receiving benefit under the legislation of the latter Party, he shall be treated as if he had been so disqualified under the legislation of the former Party.

Article 11

If a person claims unemployment benefit under German legislation by virtue of employment in the United Kingdom in accordance with any of the provisions of Articles 8 and 9 of the present Convention, the benefit due to him in relation to the period of that employment shall be determined by reference to the average earnings, calculated in accordance with agreed wage rates, or, if there are no agreed wage rates, the usual local earnings, for the usual average hours of work in similar employment at the place in the territory of the Federal Republic where he is resident.

Article 12.

Where, under the legislation of one Contracting Party, any increase of benefit would be payable for a dependant if he were in the territory of that Party, it shall be paid while he is in the territory of the other Party.

Part IV

Transitional, Administrative and Final Provisions

Article 13

The competent authorities shall inform each other as soon as possible of—

- (a) any measures taken by them for the application of the present Convention, and
- (b) any changes made in their national legislation which affect the application of the Convention.

Article 14

(1) The competent authorities and the insurance authorities shall assist one another with regard to any matter relating to the application of the present Convention as if the matter were one affecting the application of their own national legislation.

(2) The competent authorities shall agree upon the measures necessary to implement the Convention.

Article 15

Where a beneficiary has received assistance from an assistance authority of one Contracting Party for a period for which he has qualified for unemployment benefit under the legislation of the other Party, the insurance authority of the latter Party, shall, under its own national legislation, withhold the amount paid in the form of assistance at the request of the assistance authority concerned. This provision, subject to such modifications as may be appropriate, shall apply also to any of the beneficiary's dependants who have received assistance.

Article 16

(1) Where the legislation of one Contracting Party provides that any document which is submitted to an insurance authority or other authority of that Party shall be exempt, wholly or partly, from legal dues or charges this exemption shall apply to documents submitted under the present Convention to the corresponding authority of the other Party.

(2) Documents issued in the territory of one Party and submitted under the Convention to an insurance authority of the other Party need not be authenticated if they bear the official stamp or seal of the issuing authority.

Article 17

(1) Any claim, notice or appeal, which should, for the purpose of the legislation of one Contracting Party, have been submitted to an insurance authority or other authority of that Party, shall be treated as if it had been submitted to the appropriate authority if it has been submitted to an authority of the other Party concerned with social security. The day on which the claim, notice or appeal is submitted to that authority shall be considered as the day of submission to the appropriate authority.

(2) In any such case, the authority to which the claim, notice or appeal has been submitted shall transmit it without delay to the appropriate authority of the other Party.

Article 18

For the purpose of applying the present Convention to particular cases, the insurance authorities may communicate directly with one another or with the person concerned, or with any representative of his, and, for this purpose, any letter may be written in the English or German language.

Article 19

Any document, presented for the purpose of the present Convention to the insurance authority of one Contracting Party or to any other authority of that Party concerned with social security, may be written in the official language of the other Party.

Article 20

(1) No provision of the present Convention shall confer any right to receive any payment of benefit for any period before the date of the entry into force of the Convention.

(2) The provisions of Articles 8, 9 and 10 of the present Convention shall apply also to events which occurred before the entry into force of the Convention.

Article 21

(1) Any dispute concerning the interpretation or application of the present Convention shall, as far as possible, be resolved by the competent authorities.

(2) If any such dispute cannot be resolved in this manner, it shall, at the request of either Party, be submitted to an arbitration tribunal.

(3) The arbitration tribunal shall consist of two members, one appointed, when occasion arises, by each Party, and a national of a third state chosen by the members as chairman. If one Party fails to appoint its member within sixty days of the request for arbitration by the other Party, or if the members fail to agree upon a chairman within sixty days after they have been appointed, either of the Parties may ask the President of the International Court of Justice to make the requisite appointment. In the event of the President being a national of either Party, or being prevented from making the appointment for any other reason, the Vice-President of the Court may be asked to make the requisite appointment.

(4) The decisions of the arbitration tribunal shall be by majority vote. Its decisions shall be final and binding. Each Party shall bear the expenses of its member. The remaining costs shall be borne equally by the two Parties. Apart from these provisions, the arbitration tribunal shall itself determine its rules of procedure

Article 22

The provisions of the present Convention shall not be deemed to modify those provisions of German legislation which restrict the right to be appointed to offices of the Federal Institute for Labour Placing and Unemployment Insurance to persons who are entitled to be elected to the German Federal Parliament.

Article 23

In the event of the termination of the present Convention, a person who is receiving unemployment benefit by virtue of its provisions at the date of termination may continue to receive that benefit in accordance with those provisions.

Article 24

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged in London as soon as possible.

(2) The Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

Article 25

Changes to legislation: *There are currently no known outstanding effects for the The National Insurance (Germany) Order 1961, FIRST SCHEDULE. (See end of Document for details)*

The present Convention shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such yearly period.

In witness whereof the undersigned Plenipotentiaries have signed the present Convention.

Done in duplicate at Bonn this twentieth day of April, 1960, in the English and German languages, both texts being equally authoritative.

Changes to legislation:

There are currently no known outstanding effects for the The National Insurance (Germany) Order 1961, FIRST SCHEDULE.