

1994 No. 2802

SOCIAL SECURITY

The Social Security (Jersey and Guernsey) Order
1994

Made - - - - 2nd November 1994

Coming into force 2nd November 1994

[Under art. 2 of S.I. 1995/767 the SS C&B Act 1996 (c.4), the SSA Act 1992 (c. 5) and the Jobseekers Act 1995 (c.18) are modified so that the effect can be given to the proposal that any references in the Agreement set out in the Schedule to this Order, to sickness benefit, invalidity benefit or invalidity pension under UK legislation shall include short-term incapacity benefit or long-term incapacity benefit and to the proposal that any provisions relating to the calculation or payment of the former benefits apply also to the appropriate latter benefit.]

[Under art. 2 of S.I. 1996/1928, the SS C&B Act 1996 (c. 4), the SSA Act 1992 (c. 5) and the Jobseekers Act 1995 (c. 18) are modified. The effect will be that any reference, in the Agreement set out in the Schedule to this Order, to unemployment benefit shall include a reference to contribution-based jobseeker's allowance. Also any definition, in that Agreement, of legislation to which the Agreement applies shall be read as including a reference to the Jobseekers Act 1995.]

[Under Art 2 of S.I. 2012/360 the SS Admin Act 1992 (C. 5), the SS Conts and Bens Act 1992 (c. 4), and Part 1 of the Welfare Reform Act 2007 (C.5) are modified so that the effect can be given to the proposal that any references to invalidity benefit or invalidity pension under UK legislation, shall include a reference to employment and support allowance which is a contributory allowance awarded by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.]

At the Court at Buckingham Palace, the 2nd day of November 1994

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 179(1)(a) and (2) of the Social Security Administration Act 1992(a) and of all other powers enabling Her in that behalf is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Citation and commencement

1. This Order may be cited at the Social Security (Jersey and Guernsey) Order 1994 and shall come into force on 2nd November 1994.

(a) 1992 c. 5.

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Modification of the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992

2. The Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992(**a**) and any regulations made or having effect thereunder(**b**) shall be modified to such an 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 England, Wales and Scotland.

Revocation and Amendment of Orders

3.—(1) the Family Allowances (Jersey) Order 1973(**c**), the Child Benefit (Guernsey) Order 1977(**d**), the Social Security (Jersey and Guernsey) Order 1978(**e**), the Social Security (Jersey and Guernsey) Order 1982(**f**), the Social Security (Jersey and Guernsey) Order 1983(**g**) and the Social Security (Jersey and Guernsey) Order 1992(**h**) are hereby revoked.

(2) The reference to the Family Allowances (Jersey) Order 1973 shall be omitted in the Schedule to the Child Benefit (Residence and Persons Abroad) Regulations 1976(**i**) and the Social Security (Jersey and Guernsey) Order 1978, and the reference to the Social Security (Jersey and Guernsey) Order 1982 and the Social Security (Jersey and Guernsey) Order 1983 shall be omitted in the Schedule to the Social Security (Reciprocal Agreements) Order 1988(**j**).

N. H. Nicholls
 Clerk to the Privy Council

(a) 1992. c. 4.

(b) See section 179(5) of the Social Security Administration Act 1992.

(c) S.I. 1973/1085.

(d) S.I. 1977/592.

(e) S.I. 1978/1527.

(f) S.I. 1982/1527.

(g) S.I. 1983/604.

(h) S.I. 1992/1735.

(i) S.I. 1976/963.

(j) S.I. 1988/591.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE SECRETARY OF STATE FOR SOCIAL SECURITY, 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 DEPARTMENT OF HEALTH AND SOCIAL SECURITY, OF THE FIRST PART, THE SOCIAL SECURITY COMMITTEE, WITH THE CONSENT OF THE STATES OF JERSEY, OF THE SECOND PART, AND THE GUERNSEY SOCIAL SECURITY AUTHORITY, WITH THE CONSENT OF THE STATES OF GUERNSEY, OF THE THIRD PART

PART I

GENERAL PROVISIONS

Article 1

Definitions

(1) For the purpose of this Agreement, except where the context otherwise requires:

“additional pension” payable under the legislation of the United Kingdom means any additional pension based on the payment of insurance contributions above the level required for entitlement to basic pension;

“attendance benefit” means, in relation to the United Kingdom, attendance allowance or disability living allowance payable under the legislation of the United Kingdom, in relation to Jersey, attendance allowance payable under the legislation of Jersey and, in relation to Guernsey, attendance allowance payable under the legislation of Guernsey;

“benefits for industrial accidents and industrial diseases” means—

- (i) a pension or benefit payable to a person for loss of physical or mental faculty as a result of an industrial accident or an industrial disease arising out of, and in the course of, employed earner’s employment under the legislation of the United Kingdom. and accident benefit payable under the legislation of Jersey, or
- (ii) a benefit payable to a person for personal injury or for loss of physical or mental faculty as result of an accident arising out of, and in the course of, an insured person’s employment or self-employment or an industrial disease under the legislation Guernsey;

“Category A retirement pension” means either, or both, a basic retirement pension and an additional pension based on a person’s own insurance contributions or, for certain person whose ►marriages or civil partnerships◄ have ended by ►divorce or dissolution of a civil partnership◄ or ►death of a spouse or civil partner◄, a basic retirement pension based on the former ►spouse or civil partner’s◄ insurance contributions, payable under the legislation of the United Kingdom, and an old age pension based on a person’s own contributions or, for certain persons whose ►marriages or civil partnerships◄ have ended by ►divorce or dissolution of a civil partnership◄ or ►death of a spouse or civil partner◄, based on the former ►spouse’s or civil partner’s◄ contributions, payable under the legislation of Jersey or Guernsey;

“Category B retirement pension” means a basic retirement pension payable to a ►married person or civil partner◄ on ►his or her spouse’s or civil partner’s◄ contributions, or, for a ►widow, widower or surviving civil partner◄, either, or both, a basic retirement pension and an additional pension based on the late ►spouse’s or civil partner’s◄ contributions, payable under the legislation

Words in defn. of “category A and B retirement pension” substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

Words in defn. of
“category B retirement
pension” substituted by
art. 2 of S.I. 2005/2765
as from 5.12.05.

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of the United Kingdom, and an old age pension payable under the legislation of Jersey or Guernsey to a ►married person or civil partner◄ by virtue of the contributions of ►his or her spouse or civil partner◄ which ►he or she◄ is alive; “child benefit” means child benefit or family allowance payable under the legislation of any of the Parties;

“competent authority” means, in relation to the territory of the United Kingdom, the Department of Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of Man, and, in relation to Jersey, the Social Security Committee of the States of Jersey, and, in relation to Guernsey, the Guernsey Social Security Authority, as the case may require;

“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;

“death grant” means a death grant payable under the legislation of Jersey or Guernsey;

“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;

“employed person” means—

(i) , except for the purposes of Articles 24 to 26, a person who, in the applicable legislation, comes within the definition of an employed earner or of an employed person or is treated as such, and the words “person is employed” shall be construed accordingly; or

(ii) , for the purposes of Articles 24 to 26 a person who is, or who is treated as being, an employed person under the legislation of the United Kingdom, or an employed or self-employed person under the legislation of Jersey or Guernsey;

“employment” means employment as an employed person and the words “employ”, “employed” or “employer” shall be construed accordingly;

“equivalent period” means a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

“former Agreements” means the Agreement on Family Allowances between Jersey and Guernsey which entered into force on 8 May 1973, the Agreement on Family Allowances between the United Kingdom and Jersey which entered into force on 8 May 1973 (which Agreement did not include Northern Ireland) and the Agreement on Family Allowances between the United Kingdom and Guernsey which entered into force on 4 April 1977, and the Agreement on Social Security between the United Kingdom and Jersey and Guernsey which entered into force on 6 November 1978, as that Agreement was amended by the Exchanges of Letters which entered into force on 1 November 1982, 25 April 1983 and 27 July 1992;

“gainfully employed” means employed or self-employed;

“Guernsey” means the Islands of Guernsey, Alderney, Herm and Jethou;

“incoming tax year” means in relation to the United Kingdom, the 12 months beginning with 6 April in any year;

“insurance authority” means the authority competent to decide entitlement to benefit in question;

“insurance period” means a contribution period or an equivalent period;

“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;

“invalidity benefit” means invalidity pension, additional pension and invalidity allowance payable under the legislation of the United Kingdom, and invalidity benefit payable under the legislation of Jersey or Guernsey;

“Jersey” means the Island of Jersey;

“legislation” means, in relation to a Party, such of the legislation specified in Article 2 as applies in the territory of a Party, or in any part of the territory of that Party;

“maternity allowance” means maternity allowance payable under the legislation of any of the Parties;

“maternity grant” means maternity grant payable under the legislation of Jersey or Guernsey;

“orphan’s benefit” means guardian’s allowance payable under the legislation of the United Kingdom or Guernsey;

“Party” means the United Kingdom or Jersey or Guernsey;

“pension”, “allowance” or “benefit” includes any increases of, or any additional amount payable with, a pension, allowance or benefit respectively;

“qualifying year” means—

- (i) 50 weeks of insurance for periods before 6 April 1975, or that the person has received, or been treated as having received, earnings of at least 52 times the lower earnings limit in an income tax year after 5 April 1978 under the legislation of the United Kingdom, or
- (ii) an annual contribution factor of 1.00 under the legislation of Jersey, or
- (iii) an insurance period of not less than 50 weeks under the legislation of Guernsey;

“reckonable year” means, in relation to the United Kingdom, an income tax year between 6 April 1975 and 5 April 1978 during which contributions have been paid on earnings received, or treated as received, of at least 50 times the lower earnings limit for that year;

“refugee” means a person so defined in Article 1 of the Convention on the Status of Refugees signed on 28th July 1951 and the Protocol to that Convention signed on 31 January 1967;

“retirement pension” means retirement pension or old age pension payable under the legislation of any of the Parties;

“self-employed person” means a person who, in the applicable legislation, comes within the definition of a self-employed earner or of a self-employed person or is treated as such, and the words “person is self-employed” shall be construed accordingly;

“ship or vessel” means any ship or vessel whose port of registry is a port in the territory of any Party, or a hovercraft which is registered in the territory of any Party, and whose owner (or managing owner if there is more than one owner) resides in, or has a place of business in, any of the territories;

“sickness benefit” means sickness benefit payable under the legislation of any of the Parties;

“stateless person” means a person so defined in Article 1 of the Convention on the Status of Stateless Persons signed on 28th September 1954;

“statutory maternity pay” means a payment which an employer must make under the legislation of Great Britain or Northern Ireland in connection with pregnancy and for a period before and after confinement.

“statutory sick pay” means a payment which an employer must make under the legislation of Great Britain or Northern Ireland in respect of sickness;

“unemployment benefit” means unemployment benefit payable under the legislation of the United Kingdom or Guernsey;

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland and also the Isle of Man;

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widow's benefit" means—

- (i) widow's payment, widowed mother's allowance and widow's pension payable under the legislation of the United Kingdom, or
- (ii) widow's allowance, widowed mother's allowance, widow's pension and widowed father's allowance payable under the legislation of Jersey; or
- (iii) widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of Guernsey.

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

(3) Any reference in this Agreement to "Article" means an Article of this Agreement, and any reference to a "paragraph" is a reference to a paragraph of the Article in which the reference is made, unless it is stated to the contrary.

Article 2

Scope of Legislation

- (1) This Agreement shall apply,
 - (a) in relation to the United Kingdom, to:
 - (i) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992 and the Social Security (Consequential Provisions) Act 1992;
 - (ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Consequential Provisions) (Northern Ireland) Act 1992;
 - (iii) the Social Security Acts 1975 to 1991 (Acts of Parliament) and the Child Benefit Act 1975 (an Act 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);
 - (b) in relation to Jersey to the Social Security (Jersey) Law, 1974, the Family Allowances (Jersey) Law, 1972 and the Attendance allowance (Jersey) Law, 1973; and
 - (c) in relation to Guernsey, to the Social Insurance (Guernsey) Law, 1978, the Family Allowances (Guernsey) Law, 1950 and the Attendance and Invalid Care Allowance (Guernsey) Law, 1984;

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

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

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

(4) This Agreement shall not apply to legislation on social security of the Institutions of the European Community or to any agreement or convention on social security which any of the Parties has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph (1) for the purpose of giving effect to such an agreement or convention, but shall not prevent any Party taking into account under its legislation the provisions of any other agreement or convention which that Party has concluded with a third party.

Article 3

Equal Treatment

A person, together with his dependants and survivors, who is, or has been, subject to the legislation of a party shall, while he is in the territory of any other Party, enjoy the provisions of the legislation of that other Party under the same conditions as a national of that Party, subject to the special provisions of this Agreement.

Article 4

Refugees and Stateless Persons

This Agreement shall apply to refugees and stateless persons who are residing in the territory of any of the Parties. It shall apply under the same conditions to members of their families, and to their survivors, with respect to the rights they derive from those refugees or stateless persons.

Article 5

Provisions for the Export of Benefit

(1) Subject to Articles 15, 17 to 26 and 34, a person who would be entitled to receive a retirement pension, widow's benefit or invalidity benefit or any pension or benefit payable in respect of an industrial accident 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 or benefit while he is in the territory of any other Party, as if he were in the territory of the former Party.

(2) Subject to Article 13(3), (4) and (6), a person who continues to be entitled to receive sickness benefit under the legislation of the United Kingdom while he is in Jersey or Guernsey may, after having received, or been deemed to have received, 168 days sickness benefit, become entitled to receive invalidity benefit under the legislation of the United Kingdom while he is in Jersey or Guernsey, provided that he continues to satisfy the insurance authority of the United Kingdom that he remains incapable of work.

(3) Subject to Article 13(3), (5) and (6), a person who continues to be entitled to receive sickness benefit under the legislation of Jersey while he is in the United Kingdom or Guernsey may, after having been received, or been deemed to have received, 364 days sickness benefit, become entitled to receive invalidity benefit under the legislation of Jersey while he is in the United Kingdom or Guernsey, provided that he continues to satisfy the insurance authority of Jersey that he remains incapable of work.

(4) Subject to Article 13(3), (5) and (6), a person who continues to be entitled to receive sickness benefit or industrial injury benefit under the legislation of Guernsey while he is in the United Kingdom or Jersey may, after having received, or been deemed to have received, 156 days sickness benefit or industrial injury benefit, become entitled to receive invalidity benefit under the legislation of Guernsey while he is in the United Kingdom or Jersey, provided that he continues to satisfy the insurance authority of Guernsey that he remains incapable of work.

(5) Where, under the legislation of one Party, an increase of any of the benefits for which specific provision is made in this Agreement 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 any other Party.

PART II

PROVISIONS WHICH DETERMINE THE LEGISLATION
 APPLICABLE CONCERNING CONTRIBUTIONS LIABILITY

Article 6**General Provisions**

(1) Subject to paragraphs (2) to (13) and Articles 7 to 11, where a person is gainfully employed, liability for contributions for him shall be determined under the legislation of the Party in whose territory he is so employed.

(2) Where a person is employed in the territory of more than one Party for the same period, liability for contributions for him 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 more than one Party for the same period, liability for contributions for him shall be determined only 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 any other Party for the same period, liability for contributions for him shall be determined only under the legislation of the former Party.

(5) No provision of this Article shall affect a person's liability to pay a Class 4 contribution under the legislation of the United Kingdom.

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

(7) Where, but for this paragraph, a person would be entitled to pay contributions voluntarily under the legislation of more than one Party for the same period, he shall be entitled to pay contributions only under the legislation of one Party according to his choice.

(8) Where under Articles 7, 8(a) or (b), or 9(2), a person is employed in the territory of one Party while remaining liable for contributions under the legislation of any other Party, the legislation of the former Party shall not apply to him and he shall not be liable, nor entitled, to pay contributions under the legislation of the former Party.

(9) Where a person is gainfully employed in the territory of a Party and the legislation of any other Party does not apply to him in accordance with paragraphs (1) and 9(4) or ceases to apply to him under Articles 7, 8(a) or (b), or 9(2), the legislation of the former Party shall apply to him as if he were ordinarily resident in the territory of that Party.

(10) A person who is entitled to receive sickness benefit, maternity allowance, invalidity benefit or injury benefit for any period under the legislation of one Party, or 100% disablement benefit for any period under the legislation of Jersey, shall be excepted from liability to pay a contribution in respect of that period, other than as an employed or self-employed person, under the legislation of any other Party.

(11) A person who is entitled to receive widow's benefit under the legislation of Jersey shall be awarded credits only for periods during which that person is ordinarily resident in Jersey.

(12) A ►person◄ who is entitled to receive widow's benefit under the legislation of Guernsey while ►he or she◄ is in the territory of any other Party shall not be credited with a Class 3 contribution in respect of every week during which that benefit is payable to ►him or her◄, but shall be credited, for the purposes of entitlement to

Words in art. 6(12) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

retirement pension or death grant, in respect of each year during the whole or part of which such benefit is payable, with a number of Class 3 contributions equal to ►his or her spouse's or civil partner's◄ yearly average of reckonable contributions at the date of ►his or her◄ death. If the rate of retirement pension payable to such a ►person◄ would be less than the rate of widow's benefit formerly payable it shall be increased to that of the widow's benefit.

Words in art. 6(12)
substituted by art. 2 of
S.I. 2005/2765 as from
5.12.05.

(13) For the purpose of determining whether a person is entitled to be credited with a Class 1 contribution under the legislation of Guernsey in respect of any week of unemployment, any insurance period completed under the legislation of the United Kingdom, or any period of employment completed under the legislation of any Party shall be treated as a contribution period of period of employment, as the case may be, under the legislation of Guernsey.

Article 7

Detached Workers

Subject to Articles 8 and 9, where a person insured under the legislation of one party and employed by an employer in the territory of that Party is sent by that employer to work in the territory of any other Party, the legislation of the former Party concerning liability for contributions shall continue to apply to him as if he were employed in the territory of that Party, provided that the employment in the territory of any other Party is not expected to last for more than three years, and the legislation of that other Party shall not apply to him.

Article 8

Travelling Personnel

Subject to Article 9, 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 whether for another undertaking or on its own account:

- (a) subject to sub-paragraphs (b) and (c), 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 any other Party;
- (b) subject to sub-paragraph (c), 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 the territory, the legislation of that Party concerning liability for contributions shall apply to him, even if the undertaking which employs him does not have a place of business or branch or any agency in that territory.

Article 9

Mariners and others Employed on Board a Ship or Vessel

(1) Subject to paragraphs (2) to (4), 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 any Party.

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(2) 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 his employer in the territory of that Party to work on board a ship or vessel of any other Party, the legislation of the former Party concerning liability for contributions shall continue to apply to him provided that his employment on board the ship or vessel of that other Party is not expected to last for a period of more than one year.

(3) 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 a port of, any other Party, the legislation concerning liability for contributions of the Party in whose territory he is ordinarily resident shall apply to him as if any conditions relating to residence were satisfied in his case.

(4) Where a person who is ordinarily resident in the territory of one Party and employed on board any ship or vessel of any other Party is paid remuneration in respect of that employment by a person who is ordinarily resident in, or by an undertaking having a 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 purpose of such legislation.

Article 10

Government Servants

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 any other Party, the legislation of the former Party concerning liability for contributions shall apply to him as if he were employed in its territory.

Article 11

Modification Provisions

Exceptionally, the competent authorities of the Parties may agree to modify the application of Articles 6 to 10 in respect of particular persons or categories of persons.

PART III

SPECIAL PROVISIONS

Article 12

Conversion Formulae for Contributions

(1) For the purpose of calculating entitlement under the legislation of the United Kingdom to any benefit in accordance with Articles 17 to 23, contribution periods or equivalent periods completed under the legislation of Jersey or Guernsey before 6 April 1975 shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of the United Kingdom, as the case may be.

(2) For the purpose of calculating entitlement under the legislation of the United Kingdom to any benefit in accordance with Articles 13 and 17 to 23, contribution periods completed as a self-employed person or as a non-employed

person or equivalent periods completed under the legislation of Jersey or Guernsey after 5 April 1975 shall be treated as if they had been contribution periods completed as a self-employed person or as a non-employed person or equivalent periods completed under the legislation of the United Kingdom, as the case may be.

(3) Subject to paragraph (4), for the purpose of calculating an earnings factor for assessing entitlement to any benefit in accordance with Articles 13 and 16 to 23 under the legislation of the United Kingdom, a person shall be treated for each week beginning in a relevant income tax year commencing after 5 April 1975, the whole or any part of which week is a contribution period completed as an employed person under the legislation of Guernsey, or Jersey except for the purposes of Article 16, as having paid a contribution as an employed earner, or having earnings on which primary Class 1 contributions have been paid, on earnings equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement to additional pension under the legislation of the United Kingdom, no account shall be taken of any contribution period completed under the legislation of Jersey or Guernsey.

(5) For the purposes of calculating entitlement to additional pension under the legislation of the United Kingdom, no account shall be taken of any contributions period completed under the legislation of Jersey or Guernsey.

- (a) in any income tax year commencing after 5 April 1975, an employed person has completed periods of insurance exclusively in Jersey or Guernsey and the application of paragraph (3) results in that year being a qualifying year under the legislation of the United Kingdom, he shall be deemed to have been insured for 52 weeks in that year;
- (b) any income tax year commencing after 5 April 1975 does not count as a qualifying year under the legislation of the United Kingdom, any periods of insurance completed in that year shall be disregarded.

(6) For the purpose of calculating the appropriate contribution factor to establish entitlement to any benefit in accordance with Articles 13 to 15, 17 to 26 and 30 provided under the legislation of Jersey, a person shall be treated:

- (a) for each week in an insurance period completed under the legislation of the United Kingdom, except for the purposes of Articles 14 and 30, or Guernsey, being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter.
- (b) for each week in an insurance period completed under the legislation of the United Kingdom, except for the purposes of Article 14 and 30, or Guernsey, being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.

(7) For the purpose of calculating entitlement to any benefit in accordance with Articles 13 to 26 and 30 under the legislation of Guernsey, contribution periods or equivalent periods completed under the legislation of the United Kingdom, except for the purposes of Articles 14 and 30, or Jersey, except for the purposes of Article 16, shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of Guernsey.

(8) for the purpose of converting to a contribution period any earnings factor achieved in any income tax year commencing after 5 April 1975 under the legislation of the United Kingdom, the competent authority of the United Kingdom shall divide the earnings factor achieved under its legislation by that year's lower earnings limit. The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated subject to a maximum of the number of weeks during which the person was subject to that legislation in that year shall be treated as representing the number of weeks in the contribution period completed under that legislation.

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(9) For the purpose of converting to a contribution period any contribution factor achieved under the legislation of Jersey, the competent authority of Jersey shall:

- (a) in the case of a quarterly contribution factor, multiply the factor achieved by a person in a quarter by 13; and
- (b) in the case of an annual contribution factor, multiply the factor achieved by a person in a year by 52.

The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in a quarter or in a year, as the case may be, shall be treated as representing the number of weeks in the contribution period completed under the legislation.

(10) For the purpose of converting insurance periods completed under the legislation of Guernsey, each contribution period or equivalent period completed under that legislation shall be treated as if it had been a contribution period or an equivalent period completed under the legislation of the United Kingdom or Jersey.

PART VI
BENEFIT PROVISIONS

Section 1

Provisions for Sickness, Maternity, Invalidity and Unemployment

Article 13

Sickness Benefit and Maternity Allowance

(1) Where a person has, since his last arrival in the territory of one Party, completed a contribution period under the legislation of that Party, then for the purpose of any claim for sickness benefit or maternity allowance made under the legislation of that Party, an insurance period completed under the legislation of any other Party shall be treated in accordance with Article 12 as if it were an insurance period completed under the legislation of the former Party.

(2) Where a person is employed in the territory of one Party and the legislation of any other Party applies to him in accordance with any of the provisions of Articles 6 to 11, he shall be treated under that legislation for the purpose of any claim to sickness benefit or maternity allowance as if he were in the territory of that other Party.

(3) Subject to paragraph (5), where a person would be entitled to receive sickness benefit or maternity allowance under the legislation of one Part if he were in the territory of that Party, he shall be entitled to receive that sickness benefit or maternity allowance while he is in the territory of any other party if:

- (a) his conditions necessitates immediate treatment during a stay in the territory of that Party and within six days of commencement of incapacity for work, or such longer period as the competent authority may allow, he submits to the competent authority of the former Party a claim for benefit and documentary evidence of incapacity for work issued by the doctor treating him; or
- (b) having claimed and become entitled to sickness benefit or maternity allowance under the legislation of the former party he is authorised by the competent authority of that Party to return to the territory of any other Party where he resides, or to transfer his residence to the territory of any other Party; or

- (c) having claimed and become entitled to sickness benefit or maternity allowance under the legislation of the former Party he is authorised by the competent authority of that Party to go to the territory of any other Party to receive there treatment for his condition.

The authorisation required in accordance with sub-paragraph (b) may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health, or to the receipt of medical treatment.

(4) Subject to paragraph (5), where a person would, if he were in Great Britain or Northern Ireland, be entitled to receive statutory sick pay or statutory maternity pay under the legislation of Great Britain or Northern Ireland, he shall, provided that he satisfies all the conditions for entitlement to, and payment of, sickness benefit or maternity allowance under the legislation of Great Britain or Northern Ireland, with the exception of any conditions as to residence and presence in Great Britain or Northern Ireland, be entitled to receive that sickness benefit or maternity allowance while he is in the territory of any other Party if:

- (a) his condition necessitates immediate treatment during a stay in the territory of any other Party and within six days of commencement of incapacity for work, or such longer periods as the competent authority or insurance authority may allow, he submits to the competent authority or insurance authority of Great Britain or Northern Ireland a claim for benefit and documentary evidence of incapacity for work issued by the doctor treating him; or
- (b) having become entitled to statutory sick pay or statutory maternity pay under the legislation of Great Britain or Northern Ireland, he is authorised by the competent authority of Great Britain or Northern Ireland to return to the territory of any other Party where he resides, or to transfer his residence to the territory of any other Party; or
- (c) having become entitled to statutory sick pay or statutory maternity pay under the legislation of Great Britain or Northern Ireland he is authorised by the competent authority of Great Britain or Northern Ireland to go to the territory of any other Party to receive there treatment for his condition.

The authorisation required in accordance with sub-paragraph (b) may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health, or to the receipt of medical treatment.

(5) Nothing in this Article shall permit the payment of statutory sick pay or statutory maternity pay outside Great Britain or Northern Ireland.

(6) Where a person who is resident in the territory of one Party claims but is not entitled to receive sickness benefit or maternity allowance under the legislation of that Party but would be entitled to receive sickness benefit or maternity allowance under the legislation of any other Party if he were in the territory of that Party, he shall be entitled to receive that sickness benefit or maternity allowance while he is in the territory of the former Party provided that, since his last arrival in the territory of that Party, he has not completed a contribution period under its legislation.

(7) Where, but for this paragraph, a person would be entitled to receive for the same period, whether by virtue of this Agreement, or otherwise:

- (a) sickness benefit, including industrial injury benefit under the legislation of Guernsey, or maternity allowance under the legislation of more than one Party, or
- (b) statutory sick pay or statutory maternity pay under the legislation of Great Britain or Northern Ireland, and sickness benefit or maternity allowance under the legislation of any other Party,

that benefit, allowance or payment shall be granted only under the legislation under which the person was last insured before entitlement arose.

Article 14**Maternity Grant Under the Legislation of Jersey and Guernsey**

(1) In this Article “Party” means Jersey or Guernsey, as the case may be.

(2) For the purpose of a claim to maternity grant under the legislation of one Party, a woman who is confined in the territory of the other Party shall be treated as if she were in, or confined in, the territory of the former Party and any grant to which she may be entitled under the legislation of that Party shall be payable as if she were in, or confined in, the territory of that Party and not as if she were in, or confined in, the territory of the latter Party.

(3) Where a woman would be entitled to a maternity grant under the legislation of both Parties in respect of the same confinement, whether by virtue of this Agreement or otherwise:

- (a) the grant shall be payable only under the legislation of the Party in whose territory the confinement occurs; or
- (b) if the confinement does not occur in the territory of either Party, the grant shall be payable only under the legislation of the Party under whose legislation the woman or, if relevant to the claim, her ►spouse or civil partner◄ was last insured before the confinement.

Words in art. 14(3)(a) &
(4) substituted by art. 2
of S.I. 2005/2765 as
from 5.12.05.

(4) Where a woman would not be entitled to a maternity grant under the legislation of either Party then, for the purposes of a claim under the legislation of the Party in whose territory she was confined or, if she was not confined in the territory of either Party under the legislation of the territory in which she or her ►spouse or civil partner◄ was last insured before her confinement, any insurance period completed under the legislation of the other Party shall be treated, in accordance with Article 12, as an insurance period completed under the legislation of the Party to whom the claim is appropriate.

Article 15**Invalidity Benefit**

Where a person has been insured under the legislation of more than one Party, the competent authority in the territory of the Party whose legislation was applicable when incapacity for work followed by invalidity began shall determine, in accordance with its legislation, whether the person concerned satisfies the conditions for entitlement to invalidity benefit taking account, where appropriate, of any insurance period which that person has completed under the legislation of any other Party as if it were an insurance period completed under its legislation.

Article 16**Unemployment Benefit Under the Legislation of the United Kingdom and Guernsey**

(1) In this Article “Party” means the United Kingdom or Guernsey, as the case may be.

(2) Where a person has, since his last arrival in the territory of one Party, completed a contribution period under the legislation of that Party, then for the purpose of any claim for unemployment benefit made under the legislation of that Party, any insurance period, or period of employment, completed under the legislation of the other Party shall be treated in accordance with Article 12 as if it were an insurance period, or period of employment, completed under the legislation of the former Party.

(3) Where paragraph (2) applies, any unemployment benefit paid to a person for a period by one Party before the day for which a claim is made for unemployment benefit under the legislation of the other Party shall be taken into account for determining the duration of the payment under the legislation of the latter party.

(4) Periods of employment in the territory of one Party shall be taken into account for the purpose of determining whether a person who has previously exhausted his right to unemployment benefit under the legislation of the other Party requalifies for it.

(5) this Article shall not apply to a person who claims unemployment benefit under the legislation of Guernsey and who has not paid 26 contributions as an employed person under the legislation of Guernsey.

Section 2

Retirement Pension and Widow's benefit

Article 17

General Provisions

(1) Subject to paragraphs (2) to (4), where a person is entitled to a basic retirement pension under the legislation of any Party otherwise than by virtue of this Agreement, that pension shall be payable and Article 18 shall not apply under that legislation.

(2) Notwithstanding paragraph (1), a person entitled to a Category B retirement pension under the legislation of the United Kingdom, shall also be entitled to have any Category A retirement pension entitlement determined in accordance with Article 18.

(3) Notwithstanding paragraph (1), a ►married person or civil partner◄ entitled to a retirement pension solely on ►his or her spouse or civil partner's◄ contributions under the legislation of Jersey or Guernsey shall also be entitled to have any pension entitlement based entirely on ►his or her◄ own insurance determined in accordance with Article 18. Such a ►married person or civil partner◄ shall be entitled to receive only the benefit of ►his or her◄ choice.

Words in art. 17(3) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(4) Entitlement to a retirement pension in the circumstances referred to in paragraph (1) shall not preclude the competent authority of any other Party from taking into account in accordance with paragraph (3) or Article 18 insurance periods completed under the legislation of any other Party.

Article 18

Pro-rata Pensions

(1) Subject to Articles 17 and 19 to 21, this Article shall apply to determine a person's entitlement to retirement pension, including any increase for dependants, under the legislation of any Party.

(2) In accordance with Article 12, the competent authority of any Party shall determine:

- (a) the amount of the theoretical pension which would be payable if all the relevant insurance periods completed under the legislation of all Parties had been completed under its own legislation;
- (b) the proportion of such theoretical pension which bears the same relation to the whole as the total of the insurance periods completed under the legislation of that Party bears to the total of all the relevant insurance periods completed under the legislation of all Parties.

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The proportionate amount thus calculated shall be the rate of pension actually payable by the competent authority.

(3) For the purpose of the calculation in paragraph (2), where all the insurance periods completed by any person under the legislation of:

- (a) the United Kingdom amount to less than one reckonable year or, as the case may be, one qualifying year, or relate only to periods before 6 April 1975 and in aggregate amount to less than 50 weeks, or
- (b) Jersey amount to less than an annual contribution factor of 1.00 or
- (c) Guernsey amount to less than 50 weeks,

those periods shall be treated in accordance with paragraph (4).

(4) Insurance periods under paragraph (3) shall be treated as follows:

- (a) as if they had been completed under the legislation of any Party under which a pension is, or if such periods are taken into account, would be, payable, or
- (b) where a pension is, or would be, payable under the legislation of two or more Parties as if they had been completed under the legislation of that Party which, at the date on which entitlement first arose or arises, is paying, or would pay, the greater, or greatest amount.

(5) Where no pension is, or would be, payable under paragraph (4), insurance periods under paragraph (3) shall be disregarded.

(6) Any increase of benefit payable under the legislation of the United Kingdom because of deferred retirement or deferred entitlement shall be based on the amount of the pro-rata pension calculated in accordance with this Article.

Article 19

Insurance Periods to be taken into Account

For the purpose of applying Article 18 the competent authority of any Party shall take account only of insurance periods completed under the legislation of any other Party which would be taken into account for the determination of pensions under the legislation of that Party if they had been completed under its legislation, and shall, where appropriate, take into account, in accordance with its legislation, insurance periods completed by a ►spouse or civil partner◄, or former ►spouse or civil partner◄, as the case may be.

Words in art. 19 substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

Article 20

Overlapping Periods

For the purpose of applying Article 18:

- (a) where a compulsory insurance period completed under the legislation of one Party coincides with a voluntary insurance period completed under the legislation of any other Party, only the compulsory insurance period shall be taken into account, provided that the amount of pension payable under the legislation of any other Party under paragraph (2) of Article 18 shall be increased by the amount by which the pension payable under the legislation of that Party would have been increased if all voluntary contributions paid under that legislation had been taken into account;
- (b) where a contribution period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of any other Party, only the contribution period shall be taken into account;

- (c) where an equivalent period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of any other Party, account shall be taken only of the equivalent period completed under the legislation under which, the insured person was last insured before the day when the periods in question began or, if he was never insured before that day, under the legislation under which he first became insured after the day when the periods in question ended;
- (d) where a compulsory contribution period completed under the legislation of one Party coincides with a compulsory contribution period completed under the legislation of any other Party, each Party shall take into account only the compulsory contribution period completed under its own legislation;
- (e) where a voluntary contribution period completed under the legislation of one Party coincides with a voluntary contribution period completed under the legislation of any other Party, each Party shall take into account only the voluntary contribution period completed under its own legislation;
- (f) where it is not possible to determine accurately the period of time in which certain insurance periods were completed under the legislation of one Party, such insurance periods shall be treated as if they did not overlap with insurance periods completed under the legislation of any other Party and shall be taken into account to the best advantage of the beneficiary.

Article 21

Benefits to be Excluded

For the purpose of applying Article 18 no account shall be taken of the following benefits payable under the legislation of the United Kingdom:

- (a) any additional pension payable;
- (b) any graduated retirement benefit payable by virtue of any graduated contributions paid before 6 April 1975;
- (c) any invalidity allowance payable;

but any such benefit shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (2) of Article 18.

Article 22

Non-simultaneous Entitlement

Where a person does not simultaneously satisfy the conditions for entitlement to a retirement pension under the legislation of two or more Parties, his entitlement from each Party shall be established as and when he satisfies the conditions applicable under the legislation of that Party, taking account, where appropriate, of Article 18.

Article 23

Widow's Benefit

(1) Articles 17 to 22 shall also apply, with such modification as the differing nature of the benefits shall require, to widow's benefit.

(2) Where widow's benefit would be payable under the legislation of one Party if a child were in the territory of that Party, it shall be payable while the child is in the territory of any other Party.

Section 3

Benefits for Industrial Accidents and Industrial Diseases

Article 24

General Provisions

(1) Where a person is employed in the territory of one Party and the legislation of any other Party applies to him in accordance with any of the provisions of Articles 7 to 11, he shall be treated under that legislation for the purpose of any claim to benefit in respect of an industrial accident or an industrial disease contracted during that employment, as if the accident had occurred or the disease had been contracted in the territory of any other Party. Where benefit would be payable in respect of that claim if the person were in the territory of that Party, it shall be payable while he is in the territory of the former Party.

(2) Where a person leaves the territory of one Party to go in the course of his employment to the territory of any other Party, but before he arrives in that territory sustains an accident, then, for the purpose of any claim for benefit in respect of that accident:

- (a) that accident shall be treated as if it had occurred in the territory of the Party whose legislation was expected to apply to him in respect of his employment in that territory; and
- (b) his absence from the territory of that Party shall be disregarded in determining whether his employment was as an employed person under that legislation.

(3) Where, because of a death resulting from an industrial accident or an industrial disease, a benefit would be payable under the legislation of one Party in respect of a child if that child were in the territory of that Party, that benefit shall be payable while the child is in the territory of any other Party.

Article 25

Dual Attribution and Aggravation of an Industrial Disease

(1) In this Article “Party” means the United Kingdom of Guernsey, as the case may be.

(2) Subject to paragraph (3), where a person contracts an industrial disease, after having been employed in the territories of both Parties in an occupation to which, under the legislation of both Parties, the disease may be attributed and he would be entitled to receive benefit in respect of that disease under the legislation of both Parties, whether by virtue of this Agreement or otherwise, the benefit shall be payable only under the legislation of the Party in whose territory he was last employed in that occupation before the disease was diagnosed.

(3) Where a person has suffered an aggravation of an industrial disease for which benefit has been paid in accordance with paragraph (2), the following provisions shall apply:

- (a) if the person has not had further employment in an occupation to which the disease or the aggravation may be attributed, or has had such employment only in the territory of the Party under whose legislation benefit has been paid, any additional benefit to which he may become entitled as a result of such aggravation shall be payable only under that legislation;
- (b) if the person makes a claim under the legislation of the Party in whose territory he is employed on the ground that he has suffered an aggravation of the disease while he was employed in the territory of that

Party in an occupation to which, under the legislation of that Party, the aggravation may be attributed, the competent authority of that Party shall be liable to pay benefit only in respect of the aggravation as determined under the legislation of that Party.

Article 26

Dual Entitlement

A person shall not be entitled, whether by virtue of this Agreement or otherwise, to receive sickness benefit, including industrial injury benefit under the legislation of Guernsey, invalidity benefit or maternity allowance under the legislation of one Party for any period during which he is entitled to benefit, other than a pension, under the legislation of any other Party in respect of incapacity for work which results from an industrial accident or an industrial disease.

Section 4

Family Benefits

Article 27

Orphan's Benefit under the Legislation of the United Kingdom in Guernsey

(1) In this Article "Party" means the United Kingdom or Guernsey, as the case may be.

(2) For the purpose of any claim for orphan's benefit under the legislation of the United Kingdom any period of presence in the territory of Guernsey shall be treated as if it were a period of presence in the territory of the United Kingdom.

(3) For the purpose of any claim for orphan's benefit under the legislation of Guernsey a person who has completed an insurance period under the legislation of the United Kingdom shall be treated as an insured person under the legislation of Guernsey.

(4) Where orphan's benefit would be payable to a person under the legislation of one Party if that person, or the orphan for whom the benefit is claimed, were ordinarily resident in the territory of that Party, it shall be paid while that person, or the orphan, is in the territory of the other Party as if he were in the territory of the former Party.

(5) Where, but for this paragraph, a person would be entitled to receive orphan's benefit under the legislation of both Parties in respect of the same orphan, whether by virtue of this Agreement or otherwise, he shall be entitled to receive benefit only under the legislation of the Party in whose territory the orphan is ordinarily resident.

Article 28

Child Benefit

(1) Subject to paragraph (6), where a person is present or resident in the territory of one Party and the legislation of any other Party applies to ►him or her◄ in accordance with any of the provisions of Articles 6 to 11, ►his or her spouse or civil partner◄ residing with ►him or her◄ shall be treated for the purpose of any claim to child benefit under that legislation:

- (a) as if ►he or she◄ were present or resident, as the case may be, in the territory of that Party, and

Words in art. 28(1) &
(a) substituted by art. 2
of S.I. 2005/2765 as
from 5.12.05.

Words in art. 28(1)(b), (2), (3), (5) & (7) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

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- (b) as if any child of his family or any child for whom ►he or she◄ is responsible were present or resident, as the case may be, in the territory of that Party if the child is present or resident, as the case may be, in the territory of any other Party.

(2) Where a person is resident in the territory of one Party together with any child of his family or any child for whom ►he or she◄ is responsible and the legislation of no other Party is applicable to ►him or her◄ in accordance with Articles 6 to 11, then for the purpose of a claim to child benefit under the legislation of the former Party in respect of that child, any period of presence or residence, as the case may be, completed in the territory of any other Party, shall be treated as if it were a period of presence or residence respectively completed by that person in the territory of the former Party.

(3) Where a person is resident in the territory of one Party and ►his or her◄ family is present or resident in the territory of any other Party and the legislation of no other Party is applicable to ►him or her◄ in accordance with Articles 6 to 11, ►his or her◄ entitlement to child benefit shall be determined only under the legislation of the Party in whose territory the family is present or resident. For the purpose of determining that entitlement, a period of presence or residence, as the case may be, completed in the territory of the former Party shall be treated as if it were a period of presence or residence respectively completed in the territory of the latter Party.

(4) Where, but for this paragraph, child benefit would be payable under the legislation of more than one Party for the same period in respect of the same child, whether by virtue of this Agreement or otherwise, child benefit shall be paid only under the legislation of the Party in whose territory that child is ordinarily resident.

(5) Subject to paragraph (1), a person who claims child benefit under the legislation of Jersey who becomes ordinarily resident in Jersey and who immediately before ►his or her◄ arrival in Jersey was resident in the United Kingdom or Guernsey and would have satisfied the residence and presence conditions for child benefit under the legislation of either of those Parties, or was in receipt of child benefit under the legislation of either of those Parties, shall be eligible for child benefit under the legislation of Jersey from the date of the arrival of ►his or her◄ family in Jersey or the cessation of child benefit under the legislation of the United Kingdom or Guernsey, whichever is the later.

(6) Child benefit shall not be payable under the legislation of Jersey unless and until the provisions of the legislation of Jersey concerning the income of the family are satisfied.

(7) For the purpose of any claim to child benefit under the legislation of Guernsey or Jersey, a person whose place of birth was in the territory of any Party shall be treated as if ►his or her◄ place of birth were in Guernsey or Jersey, as the case may be.

Section 5**Attendance Benefit and Death Grant****Article 29****Attendance Benefit**

(1) For the purpose of determining entitlement to attendance benefit under the legislation of any Party, any period of residence or presence, as the case may be, in the territory of any other Party shall be treated as if it had been a period of residence or presence, as the case may be, in the territory of the former Party.

(2) Where, but for this paragraph, a person would be entitled to receive attendance benefit under the legislation of more than one Party for the same period he shall be entitled to receive payment only under the legislation of the Party in which he is currently ordinarily resident.

Article 30

Death Grant Under the Legislation of Jersey or Guernsey

(1) In this Article “Party” means Jersey or Guernsey, as the case may be.

(2) For the purpose of any claim to death grant under the legislation of either Party any insurance period completed under the legislation of one Party shall be treated in accordance with Article 12 as if it were an insurance period completed under the legislation of the other Party.

(3) Where a person dies in the territory of either Party his death shall be treated, for the purpose of any claim for a death grant under the legislation of one party, as if it had occurred in the territory of that Party.

(4) Where there would be entitlement to death grant under the legislation of both Parties, whether by virtue of this Agreement or otherwise:

- (a) the grant shall be payable only under the legislation of the Party in whose territory the death occurs; or
- (b) if the death does not occur in the territory of either Party, the grant shall be payable only under the legislation of the Party under whose legislation the person on whose insurance the right to the grant is determined was last insured before the death.

PART V

MISCELLANEOUS PROVISIONS

Article 31

Recovery of Advance Payments and Overpayments of Benefit

Where a competent authority of one Party has made a payment of any benefit to a person for any period, or event, in advance of the period, or event to which it relates or has paid him any benefit for a period, or event, whether by virtue of this Agreement or otherwise, and the competent authority of any other Party afterwards decides that the person is entitled to benefit for that period, or event, under its legislation, the competent authority of that Party, at the request of the competent authority of the former Party, shall deduct from the benefit due for that period, or event, under its legislation any overpayment which, by virtue of this Agreement, results from the advance payment of benefit, or from the benefit paid, by the competent authority of the former Party and shall, where appropriate, transmit this sum to the competent authority of the former Party.

Article 32

Arrangements for Administration and Co-operation

(1) The competent authorities of the Parties shall establish the administrative measures necessary for the application of this Agreement.

(2) The competent authorities of the Parties shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their national legislation in so far as these changes affect the application of this Agreement.

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(3) The competent authorities of the Parties shall establish liaison offices for the purpose of facilitating the implementation of this Agreement.

(4) The competent authorities of the Parties shall assist one another on any matter relating to the application of this Agreement as if the matter were one affecting the application of their own legislation. This assistance shall be free of charge.

(5) Where any benefit is payable under the legislation of one Party to a person in the territory of any other Party, arrangements for the payment may be made by the competent authority of the latter Party, at the request of the competent authority of the former Party, and the former Party shall reimburse the latter Party.

(6) Where a person who is in the territory of one Party has claimed, or is receiving, benefit under the legislation of any other Party and a medical examination is necessary, the competent authority of the former Party, at the request of the competent authority of the latter Party, shall arrange for this examination. The cost of such examination shall be met by the competent authority of the former Party.

(7) A medical board appointed by the competent authority of any other Party, at the request of the competent authority of Guernsey, shall be treated as a medical board for determination of disablement questions under the legislation of Guernsey.

(8) Where the legislation of one Party provides that any certificate or other document which is submitted under the legislation of that Party shall be exempt, wholly or partly, from any taxes, legal dues or administrative charges, that exemption shall apply to any certificate or other document which is submitted under the legislation of any other Party or in accordance with this Agreement.

(9) No certificate, document or statement of any kind written in an official language of any Party shall be rejected on the ground that it is written in a foreign language.

(10) Unless disclosure is required under the legislation of a Party, any information about an individual which is sent in accordance with, and for the purposes of, this Agreement to that Party by any other Party is confidential and shall be used only for the purpose of implementing this Agreement and the legislation to which this Agreement applies.

Article 33

Submission of Claim or Appeal

(1) Any claim or appeal which should, for the purposes of the legislation of one Party, have been submitted within a prescribed period to the competent authority of that Party, shall be treated as if it had been submitted to that competent authority if it is submitted within the same period to the competent authority of the other Party.

(2) Any claim to benefit submitted under the legislation of one Party shall also be deemed to be a claim for the corresponding benefit under the legislation of any other Party is so far as this corresponding benefit is payable in accordance with this Agreement.

Article 34

Method of Payment

Where a person in the territory of one Party, is receiving benefit under the legislation of any other Party, it shall be payable by whatever method the competent authority of that Party deems appropriate, except that in the case of a person who on 27 July 1992 was residing in Jersey or Guernsey and was being paid a retirement pension or widow's benefit by serial order under the legislation of the United Kingdom, that person shall be entitled to continue to receive that benefit by serial order.

Article 35

Resolution of Disputes

(1) the competent authorities of the Parties to this Agreement shall make all reasonable efforts to resolve through agreement between them any dispute about its interpretation or application.

(2) If any dispute cannot be resolved as in paragraph (1) it shall be submitted, by the competent authority of any Party, to an arbitration tribunal. Each Party shall appoint an arbitrator within one month from receipt of the demand for arbitration. The three arbitrators shall appoint two more arbitrators within two months from the date on which the Party which was the last to appoint its arbitrators has notified the other Parties of the appointment.

(3) The decision of the arbitration tribunal, which shall be binding on all parties, shall be by majority vote. The arbitration tribunal shall determine its own rules of procedure, and its costs shall be borne equally by all Parties.

PART VI

TRANSITIONAL AND FINAL PROVISIONS

Article 36

Prior Acquisition of Rights—Former Agreement Replaced by this Agreement

(1) Upon the entry into force of this Agreement the former Agreements shall terminate and shall be replaced by this Agreement.

(2) Any right to benefit acquired by a person in accordance with the former Agreements shall be maintained. For the purposes of this paragraph "any right to benefit acquired" includes any right which a person would have had but for his failure to claim timeously where a late claim is allowed.

(3) Any rights in course of acquisition under the former Agreements at the date of entry into force of this Agreement shall be settled in accordance with the Agreement in force at the date of entitlement.

(4) Where, from the date of entry into force of this Agreement, any claim to benefit has not been determined and entitlement arises before that date, the claim shall be determined in accordance with the former Agreements and shall be determined afresh in accordance with this Agreement from its date of entry into force. The rate determined under this Agreement shall be awarded from the date of its entry into force if this is more favourable than the rate determined under the former Agreements.

(5) Benefit, other than lump sum payments, shall be payable in accordance with this Agreement in respect of events which happened before the date of its

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entry into force, except that an accident which occurred or a disease which developed before that date shall not, solely by virtue of this Agreement, be treated as an industrial accident or an industrial disease if it would not have been so treated under any legislation or Agreement having effect at the time of its occurrence or development. For the purpose of determining claims in accordance with this Agreement, account shall be taken, where appropriate, of insurance periods and periods of residence, employment of presence, completed before the date of its entry into force.

(6) Paragraph (5) shall not confer any right to receive payment of benefit for any period before the date of entry into force of this Agreement.

(7) For the purpose of applying the first sentence of paragraph (5):

- (a) any right to benefit acquired by a person in accordance with the former Agreements may, at the request of the person concerned, be determined afresh in accordance with the provisions of this Agreement with effect from the date of entry into force of this Agreement provided that the request has been made within two years of the date it enters into force and, if applicable, benefit awarded at the higher rate from the latter date;
- (b) where the request for the benefit to be determined afresh is made more than two years after the date of entry into force of this Agreement, payment of benefit, and the payment of any arrears, shall be made in accordance with the legislation concerned.

(8) No provision of this Agreement shall diminish any rights or benefits which a person has properly acquired under the legislation of any Party before the date of entry into force of this Agreement.

Article 37

Coming into force and Life of the Agreement

This Agreement shall come into force on 2 November 1994 and shall remain in force for an indefinite period. any of the Parties may denounce it by giving six months notice in writing to both of the Parties.

Article 38

Rights on Termination of this Agreement not Replaced by Another

In the event of the termination of this Agreement and unless a new Agreement containing provisions regulating the matter is made, any right to benefit acquired by a person in accordance with this Agreement shall be maintained and negotiations shall take place for the settlement of any other rights then in course of acquisition by virtue of its provisions.

Given under the Official Seal of the Secretary of State for Social Security this 2nd day of August 1994.

Peter Lilley
 Secretary of State for Social Security

Given under the Official Seal of the Department of Health and Social Services for Northern Ireland this 4th day of August 1994.

F. A. Elliot
 Permanent Secretary

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Given under the hand of the Lieutenant Governor of the Isle of Man this 8th day of August 1994.

Laurence Jones
Lieutenant Governor

The consent of the Department of Health and Social Security of the Isle of Man is hereby given to this Agreement.

B. May
Minister for Health and Social Security

Signed on behalf of the Social Security Committee this 15th day of August 1994, and authorised by Act of the States of Jersey the 15th day of March 1994.

G. H. C. Coppock
Greffier of the States

Signed on behalf of the States of Guernsey by the President of the Guernsey Social Security Authority this 23rd day of August 1994.

L. C. Morgan
President, Guernsey Social Security Authority

JERSEY AND GUERNSEY
SOCIAL SECURITY (JERSEY AND GUERNSEY) ORDER 1994

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the modification of the Social Security Administration Act 1992 and the Social Security Contributions and Benefits Act 1992 and regulations made or having effect thereunder so as to give effect to the Agreement set out in the Schedule to the Order. The Agreement relates to contributions, sickness benefit, maternity allowance, invalidity benefit, unemployment benefit, retirement pension, widow's benefit, family benefits, attendance benefits and industrial injuries benefits.

This Order does not impose any costs on business.