

SCHEDULE

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

Modifications etc. (not altering text)

- C1** Sch. modified (5.12.2005) by [Social Security \(Reciprocal Agreements\) Order 2005 \(S.I. 2005/2765\)](#), art. 1, [Sch. 2](#)

PART IV

BENEFIT PROVISIONS

SECTION 3

PRO-RATA PENSIONS

Article 19 General Provisions

(1) Subject to Articles 18 and 20 to 24, this Article shall apply to determine entitlement to retirement pension, including any increase for dependants, under the legislation of any part of either Party.

(2) In accordance with Article 11, the competent authority of any part of either 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 both 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 part of either Party bears to the total of all the relevant insurance periods completed under the legislation of both Parties.

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:

- (i) Great Britain, Northern Ireland and the Isle of Man amount to less than one reckonable year or, as the case may be, one qualifying year, or relate only to periods before 6th April 1975 and in aggregate amount to less than fifty weeks, or
- (ii) Guernsey amount to less than fifty weeks,

those periods shall be treated in accordance with paragraph (4) or (5).

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

- (a) as if they had been completed under the legislation of any part of the United Kingdom 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 parts of the United Kingdom as if they had been completed under the legislation of that part which,

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Malta) Order 1996, Cross Heading: SECTION 3. (See end of Document for details)

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 treated as if they had been completed under the legislation of Malta.

(6) Where all the insurance periods completed by a person under the legislation of Malta amount to less than fifty weeks, those periods shall be treated as if they had been completed under the legislation of the United Kingdom in accordance with paragraph (4).

(7) Any increase of benefit payable under the legislation of Great Britain, Northern Ireland or the Isle of Man 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 20 Insurance periods to be taken into account

(1) For the purpose of applying Article 19 the competent authority of the United Kingdom shall take account only of insurance periods completed under the legislation of either Party which would be taken into account for the determination of pensions under the legislation of the United Kingdom if they were completed under that legislation and shall, where appropriate, take into account in accordance with that legislation, insurance periods completed by a spouse or former spouse as the case may be.

(2) For the purpose of applying Article 19, and subject to paragraph (3), the competent authority of Malta shall take account of insurance periods completed under the legislation of the United Kingdom, only where they have been completed during the average test period or working life under that legislation.

(3) For the purpose of this Article, overlapping contributions under the legislation of one Party shall only be taken into account once.

Article 21 Overlapping periods

For the purpose of applying Articles 13 to 16 or 19:

- (a) where a compulsory insurance period completed under the legislation of one Party coincides with a voluntary insurance period completed under the legislation of the other Party, only the compulsory insurance period shall be taken into account, provided that the amount of pension or benefit payable under the legislation of the latter Party under Articles 13 to 16, or paragraph (2) of Article 19, shall be increased by the amount by which the pension or benefit 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, other than a voluntary contribution period, completed under the legislation of one Party coincides with an equivalent period completed under the legislation of the 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 the 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 the 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 the 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 the other Party and shall be taken into account to the best advantage of the beneficiary.

Article 22 Benefits to be excluded

(1) For the purpose of applying Article 19 and, subject to paragraph (2), Article 13, no account shall be taken of the following benefits payable under the legislation of Great Britain, Northern Ireland or the Isle of Man:

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

but any such benefit shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (5) of Article 13 or paragraph (2) of Article 19, as appropriate.

(2) For the purpose of applying Article 13 no account shall be taken of any increase for dependants payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, but any such benefit shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (5) of Article 13.

Article 23 Pre-Scheme Contributions

For the purpose of applying Articles 19 to 22 no account shall be taken under the legislation of Malta of any contribution paid or credited under the legislation of the United Kingdom for any period before 7th May 1956.

Article 24 Non-Simultaneous Entitlement

Where a person does not simultaneously satisfy the conditions for entitlement to a retirement pension under the legislation of both 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 19.

Article 25 Widow's Benefit

(1) Articles 18 to 24 shall also apply, with such modifications 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 the other Party.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Malta) Order 1996,
Cross Heading: SECTION 3.