
STATUTORY INSTRUMENTS

1997 No. 871

SOCIAL SECURITY

The Social Security (Jamaica) Order 1997

Made - - - - - *19th March 1997*

Coming into force - - - - - *1st April 1997*

At the Court at Buckingham Palace, the 19th day of March 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas at London on 12th November 1996 a Convention on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica (which Convention is set out in Schedule 1 to this Order and is hereinafter referred to as "the Convention") providing for an earlier Agreement between the Parties concerning reciprocity in social security and the extension and modification of that Agreement to be consolidated into a single document, with extensions and modifications in scope and taking account of changes in legislation, and a Protocol supplementary to the Convention (which Protocol is set out in Schedule 2 to this Order and is hereinafter referred to as "the Protocol")⁽¹⁾ were signed on behalf of those Governments:

And Whereas by Article 33 of the Convention it is provided that the Convention shall enter into force on a date to be specified in Notes exchanged through the Diplomatic Channel by the Parties to the Convention notifying each other that all constitutional procedures as are necessary to give effect to the Convention have been finalised:

And Whereas at Kingston on 5th March 1997 Notes were exchanged on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica (which Notes are set out in Schedule 3 to this Order) specifying that the Convention shall enter into force on 1st April 1997:

And Whereas by Article 17 of the Protocol it is provided that the Protocol shall enter into force at the same time as the Convention and shall form an integral part of the Convention:

And Whereas by section 179(1)(a) and (2) of the Social Security Administration Act 1992⁽²⁾ it is provided that Her Majesty may by Order in Council make provision for modifying or adapting that Act and the Social Security Contributions and Benefits Act 1992⁽³⁾ in their application to cases affected by agreements with the Governments of countries outside the United Kingdom providing for reciprocity in matters specified in the said section:

(1) See Cm 3527.

(2) 1992 c. 5.

(3) 1992 c. 4.

Now, therefore, Her Majesty, in pursuance of section 179(1)(a) and (2) of the Social Security Administration Act 1992 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 as the Social Security (Jamaica) Order 1997 and shall come into force on 1st April 1997.

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 shall be modified to such an extent as may be required to give effect to the provisions contained in the Convention and the Protocol set out in Schedules 1 and 2 respectively to this Order so far as the same relate to England, Wales and Scotland.

Revocation and Variation of Orders

3.—(1) The National Insurance and Industrial Injuries (Jamaica) Order 1972(4) is hereby revoked.

(2) The reference to the National Insurance and Industrial Injuries (Jamaica) Order 1972 shall be omitted in Schedule 1 to the Social Security (Reciprocal Agreements) Order 1976(5), the Schedule to the Social Security (Reciprocal Agreements) Order 1979(6), the Schedule to the Social Security (Reciprocal Agreements) Order 1988(7) and Schedule 2 to the Social Security (Reciprocal Agreements) Order 1995(8).

N. H. Nicholls
Clerk of the Privy Council

(4) S.I.1972/1587.
(5) S.I. 1976/225.
(6) S.I. 1979/290.
(7) S.I. 1988/591.
(8) S.I. 1995/767.

SCHEDULE 1

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

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

Having established reciprocity in the field of social security by means of the Agreement which was signed on their behalf at London on 20 September 1972;

Wishing to consolidate the above Agreement and its extension and modification into a single document;

Wishing to extend and modify the scope of that reciprocity, including extension to the States of Jersey, and to take account of changes in their legislation;

Have agreed as follows—

PART I

GENERAL PROVISIONS

Article 1

Definitions

(1) For the purpose of this Convention the following definitions apply, except where the context otherwise requires—

“additional pension” payable under the legislation of Great Britain, Northern Ireland or the Isle of Man means any additional pension based on the payment of insurance contributions above the level required for entitlement to basic pension;

“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 Great Britain, Northern Ireland or the Isle of Man, 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 a 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 of Guernsey, or
- (iii) a benefit attributable to injury or disease in employment payable under the legislation of Jamaica;

“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 persons whose marriages have ended by divorce or widowhood, a basic retirement pension based on the former spouse’s insurance contributions, payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, and an old age pension based on a person’s own contributions, or for certain persons whose marriages have ended by divorce or widowhood, based on the former spouse’s contributions, payable under the legislation of Jersey or Guernsey;

Status: This is the original version (as it was originally made).

“Category B retirement pension” means a basic retirement pension payable to a married woman on her husband’s contributions or, for a widow or widower, either, or both, a basic retirement pension and an additional pension based on the late spouse’s contributions payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, and an old age pension payable under the legislation of Jersey or Guernsey to a married woman by virtue of the contributions of her husband while he is alive;

“competent authority” means—

- (i) 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, or
- (ii) in relation to Jersey, the Employment and Social Security Committee of the States of Jersey, or
- (iii) in relation to Guernsey, the Social Security Authority and,
- (iv) in relation to Jamaica, the Minister responsible for National Insurance, and any person or body to whom the functions, relevant to this Convention, of any of those persons or bodies, may be transferred;

“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 concerned;

“death grant” means—

- (i) a death grant payable under the legislation of Jersey or Guernsey, or
- (ii) a funeral grant payable under the legislation of Jamaica;

“dependant” means a person who would be treated as such for the purpose of any claim to an increase of benefit in respect of a dependant under the legislation concerned;

“employed person” means—

- (i) except for the purposes of Articles 22 to 24, 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 22 to 24, a person who is, or who is treated as being, an employed earner or an employed person under the legislation of Great Britain, Northern Ireland or the Isle of Man, 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 either Party;

“former Agreement” means the Agreement signed at London on 20 September 1972;

“gainfully employed” means employed or self-employed;

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

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

“insurance authority” means the authority competent to decide entitlement to the 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—

- (i) long-term incapacity benefit, additional pension, invalidity allowance and incapacity age addition payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, or
- (ii) invalidity benefit payable under the legislation of Jersey, Guernsey or Jamaica;

“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;

“orphan’s benefit” means—

- (i) guardian’s allowance payable under the legislation of Great Britain, Northern Ireland or the Isle of Man or Guernsey, or
- (ii) orphan’s benefit payable under the legislation of Jamaica;

“Party” means, unless otherwise defined, the territory of the United Kingdom, including any part of the United Kingdom, or Jamaica;

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

“qualifying year” means—

- (i) in relation to Great Britain, Northern Ireland or the Isle of Man, at least fifty 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 fifty-two times the lower earnings limit in an income tax year after 5 April 1978 under the legislation of Great Britain, Northern Ireland and the Isle of Man, or
- (ii) in relation to Jersey, an annual contribution factor of 1.00 under the legislation of Jersey, or
- (iii) in relation to Guernsey, an insurance period of not less than fifty weeks under the legislation of Guernsey;

“reckonable year” means, in relation to Great Britain, Northern Ireland and the Isle of Man, 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 fifty 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 28 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 either Party;

“seasonal worker” means—

- (i) a person subject to the legislation of Jersey or Guernsey, or
- (ii) a person subject to the legislation of Jamaica

who goes to the territory of Jersey or Guernsey or Jamaica (not being the one in which he is ordinarily resident) in order to carry out in that territory for an employer or undertaking with a place of business there, employment of a seasonal character which depends on the cycle of the seasons and which recurs automatically each year, and the duration of which cannot in any case exceed eight months, and who remains in that territory for the duration of his employment;

Status: This is the original version (as it was originally made).

“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 either territory, or a hovercraft which is registered in either territory, and whose legal or natural owner (or managing owner if there is more than one owner) resides in, or has a place of business in, either territory;

“social assistance” means income support payable under the legislation of Great Britain or Northern Ireland, or supplementary benefit payable under the legislation of the Isle of Man;

“territory” means—

- (i) in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man, Jersey and Guernsey, and references to the “United Kingdom” or to “territory” in relation to the United Kingdom shall include the Isle of Man, Jersey and Guernsey, where appropriate, or
- (ii) in relation to Jamaica, the island of Jamaica, the Pedro Cays, Morant Cays and other islands within Jamaica’s archipelagic system;

“widow’s benefit” means—

- (i) widow’s payment, widowed mother’s allowance and widow’s pension payable under the legislation of Great Britain, Northern Ireland or the Isle of Man, 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, or
- (iv) widow’s and widower’s benefit payable under the legislation of Jamaica.

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

(3) Any reference in this Convention to an “Article” means an Article of this Convention, 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

Applicable Legislation

- (1) This Convention shall apply,
 - (a) in relation to the territory of the United Kingdom, to:
 - (i) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, the Social Security (Consequential Provisions) Act 1992 and the Social Security (Incapacity for Work) Act 1994;
 - (ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 and the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
 - (iii) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, the Social Security (Consequential Provisions) Act 1992 and the Social Security (Incapacity for Work) Act 1994 (Acts 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);

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

(v) the Social Security (Jersey) Law, 1974;

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

(b) in relation to Jamaica, to the National Insurance Act, 1965 and other legislation to which it refers.

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

(3) This Convention 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 Convention and for which specific provision is made in this Convention.

(4) This Convention shall not apply—

(i) in relation to Great Britain or Northern Ireland, to legislation on social security adopted by the Council, or the Council and the Parliament of the European Community, or

(ii) in relation to Jamaica, to any treaties arising under regional economic or other arrangements to which Jamaica is, or may become, party

or to any convention on social security which either Party has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph (1) for the purpose of giving effect to such a convention, but shall not prevent either Party taking into account under its legislation the provisions of any other 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 one Party shall, while he is in the territory of the other Party, enjoy the provisions of the legislation of the other Party under the same conditions as a national of that Party, subject to the special provisions of this Convention.

Article 4

Refugees

This Convention shall apply to refugees who are residing in the territory of either Party. 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.

Article 5

Provisions for the Export of Benefit

(1) Subject to paragraph (2), Articles 13 to 24 and Article 30, a person who would be entitled to receive invalidity benefit under the legislation of Jamaica, or a retirement pension, widow's benefit, or any pension or benefit payable in respect of an industrial accident or industrial disease under the legislation of one Party, other than reduced earnings allowance payable under the legislation of the United Kingdom, 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 the other Party, as if he were in the territory of the former Party.

Status: This is the original version (as it was originally made).

(2) Notwithstanding paragraph (1), a person who is entitled to receive a retirement pension or widow's benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man and who would be entitled to an increase in the rate of that pension or benefit if he were in Great Britain, Northern Ireland or the Isle of Man shall be entitled to receive any such increase prescribed on or after 1 October 1972 by that legislation if he is in Jamaica, but nothing in this Article shall confer entitlement to receive any such increases prescribed before that date by that legislation.

(3) Where, under the legislation of one Party, an increase of any of the benefits for which specific provision is made in this Convention would be payable for a dependant if he were in the territory of that Party, it shall be payable while he is in the territory of the other Party.

PART II

PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE CONCERNING CONTRIBUTION LIABILITY

Article 6

General Provisions

(1) Subject to paragraphs (2) to (12) 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 both Parties 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 both Parties 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 the 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 Great Britain, Northern Ireland or the Isle of Man.

(6) Where a person is not gainfully employed, any liability for contributions shall be determined under the legislation of Guernsey if he is ordinarily resident in Guernsey, or under the legislation of Jersey if he is ordinarily resident in Jersey.

(7) Where, but for this paragraph, a person would be entitled to pay contributions voluntarily under the legislation of both Parties 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 the 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 United Kingdom and the legislation of Jamaica does not apply to him in accordance with paragraphs (1) and (4) or ceases to apply to him under Articles 7, 8(a) or (b), or 9(2), the legislation of the United Kingdom shall apply to him as if he were ordinarily resident in the United Kingdom.

(10) A person who is entitled to receive invalidity benefit or injury benefit for any period under the legislation of Jamaica while he is in Jersey or Guernsey, 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 Jersey or Guernsey.

(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 woman who is entitled to receive widow's benefit under the legislation of Guernsey while she is in Jamaica, shall not be credited with a Class 3 contribution in respect of every week during which that benefit is payable to her, but shall be credited, for the purposes of entitlement to 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 her husband's yearly average of reckonable contributions at the date of his death. If the rate of retirement pension payable to such a woman would be less than the rate of widow's benefit formerly payable it shall be increased to that of the widow's benefit.

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 with a place of business in the territory of that Party, is sent by that employer, either from the territory of that Party, or from a third country not party to this Convention, to work in the territory of the 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 the other Party is not expected to last for more than three years, and the legislation of the latter 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 the 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 that territory, the legislation of that Party concerning liability for contributions shall apply to him, even if the undertaking which employs him does not have a place of business or branch or any agency in that territory.

Article 9

Mariners and others employed on board a ship or vessel

Status: This is the original version (as it was originally made).

(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 either Party.

(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 the 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 the latter Party is not expected to last for a period of more than one year. Where his employment on board the ship or vessel of the latter Party continues after such period of one year, the legislation of the former Party shall continue to apply to him for any further period of not more than one year, provided that the competent authority of the latter Party agrees thereto before the end of the first period of 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, the 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 the 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

Diplomats, Government Servants and Consular Employees

(1) This Convention shall not apply to persons who are exempted from the social security law of the Party in whose territory they are present or resident by virtue of the Vienna Conventions on Diplomatic or Consular Relations.

(2) Subject to paragraph (1), 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 the other Party, the legislation of the former Party concerning liability for contributions shall apply to him as if he were employed in its territory.

(3) Subject to paragraphs (1) and (2), where a person is employed in a diplomatic mission or consular post of one Party in the territory of the other Party, or in the private service of an official of such a mission or post, the legislation of the latter Party concerning liability for contributions shall apply to him as if he were employed in its territory, unless within three months of the entry into force of this Convention, or within three months of the beginning of the employment in the territory of the latter Party, whichever is later, he chooses to be insured under the legislation of the former Party, provided that he was so insured within the period of one month immediately before the commencement of the employment at that mission or post. Where, under this paragraph, a person has the right to choose to be insured under the legislation of the former Party but does not choose to do so, he shall not be liable, nor entitled, to pay contributions under the legislation of the former Party.

Article 11

Modification Provisions

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, it being understood that such modification is an exceptional measure.

PART III SPECIAL PROVISIONS

Article 12

Conversion Formulae

(1) For the purpose of calculating entitlement to any benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with Articles 14 to 21, contribution periods or equivalent periods completed under the legislation of Jamaica before 6 April 1975 shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man, as the case may be.

(2) For the purpose of calculating entitlement to any benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with Articles 14 to 21, contribution periods completed as a self-employed person or as a non-employed person or equivalent periods completed under the legislation of Jamaica 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 Great Britain, Northern Ireland or the Isle of Man, as the case may be.

(3) Subject to paragraph (4), for the purpose of calculating an earnings factor for assessing entitlement to any benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man in accordance with Articles 14 to 21, 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 Jamaica, 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 Great Britain, Northern Ireland or the Isle of Man, no account shall be taken of any contribution period completed under the legislation of Jamaica.

(5) For the purposes of the calculation in Article 15(2) where—

- (a) in any income tax year commencing after 5 April 1975, an employed person has completed periods of insurance exclusively in Jamaica and the application of paragraph (3) results in that year being a qualifying year under the legislation of Great Britain, Northern Ireland or the Isle of Man, he shall be deemed to have been insured for fifty-two 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 Great Britain, Northern Ireland or the Isle of Man, 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 under the legislation of Jersey in accordance with Articles 13 to 24 and 26, a person shall be treated—

Status: This is the original version (as it was originally made).

- (a) for each week in an insurance period completed under the legislation of Jamaica, 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 Jamaica, 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 under the legislation of Guernsey, in accordance with Articles 13 to 24 and 26, contribution periods or equivalent periods completed under the legislation of Jamaica shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of Guernsey.

(8) For the purpose of calculating entitlement to any benefit under the legislation of Jamaica, in accordance with Articles 13 to 26, each contribution period or equivalent period completed under the legislation of Great Britain, Northern Ireland or the Isle of Man before 6 April 1975, shall be treated as if it had been a contribution period or an equivalent period completed under the legislation of Jamaica.

(9) For the purpose of converting to an insurance period any earnings factor achieved in any income tax year commencing after 5 April 1975 under the legislation of Great Britain, Northern Ireland or the Isle of Man, the competent authority of Great Britain, Northern Ireland or the Isle of Man, 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 insurance period completed under that legislation and shall be treated as if it had been an insurance period completed under the legislation of Jamaica.

(10) For the purpose of converting to an insurance 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 thirteen; and
- (b) in the case of an annual contribution factor, multiply the factor achieved by a person in a year by fifty-two.

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 insurance period completed under that legislation and shall be treated as if it had been an insurance period completed under the legislation of Jamaica.

(11) 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 an insurance period completed under the legislation of Jamaica.

PART IV

BENEFIT PROVISIONS

SECTION 1

Article 13

Invalidity Benefit

(1) In this Article “competent authority” means, in relation to Great Britain, the Secretary of State for Social Security.

(2) Where a person is entitled to receive invalidity benefit under the legislation of the United Kingdom, he shall be entitled to receive that benefit in the territory of Jamaica provided that, at the time of leaving the United Kingdom he was considered by the competent authority of the United Kingdom likely to be permanently incapacitated for work, and that he subsequently continues to satisfy that authority that he remains incapacitated for work.

(3) Where a person would be entitled to receive for the same incapacity and for the same period invalidity benefit under the legislation of both Parties, whether by virtue of this Convention or otherwise, he shall be entitled to receive only the invalidity benefit under the legislation of the Party in whose territory the incapacity began.

SECTION 2

RETIREMENT PENSION AND WIDOW'S BENEFIT

Article 14

General Provisions

(1) Subject to paragraphs (2) to (4), where a person is entitled to a basic retirement pension under the legislation of any part of either Party otherwise than by virtue of this Convention, that pension shall be payable and Article 15 shall not apply under that legislation.

(2) Notwithstanding paragraph (1), a person entitled to a Category B retirement pension under the legislation of Great Britain, Northern Ireland or the Isle of Man shall also be entitled to have any Category A retirement pension entitlement determined in accordance with Article 15.

(3) Notwithstanding paragraph (1), a married woman entitled to a retirement pension solely on her husband's contributions under the legislation of Jersey or Guernsey shall also be entitled to have any pension entitlement based entirely on her own insurance determined in accordance with Article 15. Such a married woman shall be entitled to receive only the benefit of her choice.

(4) Entitlement to a retirement pension in the circumstances referred to in paragraph (1) shall not preclude the competent authority of any part of either Party from taking into account, in accordance with paragraphs (4) to (6) of Article 15, insurance periods completed under the legislation of any part of either Party.

Article 15

Pro-Rata Pensions

(1) Subject to Articles 14 and 16 to 20, this Article shall apply to determine a person's entitlement to retirement pension, including any increase for dependants, under the legislation of any part of either Party.

(2) In accordance with Article 12, 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

Status: This is the original version (as it was originally made).

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 6 April 1975 and in aggregate amount to less than fifty weeks, or
- (ii) Jersey amount to less than an annual contribution factor of 1.00, or
- (iii) 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, 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 Jamaica.

(6) Where all the insurance periods completed by a person under the legislation of Jamaica amount to less than fifty-two 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 16

Insurance Periods to be taken into account

For the purpose of applying Article 15 the competent authority of either Party shall take account only of insurance periods (completed under the legislation of the other Party) which would be taken into account for the determination of pensions under its legislation 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 former spouse, as the case may be.

Article 17

Overlapping Periods

For the purpose of applying Article 15—

- (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 payable under the legislation of the latter Party under paragraph (2) of Article 15 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 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 18

Benefits to be excluded

(1) For the purpose of applying Article 15 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 6 April 1975;
- (c) any invalidity allowance and 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 (2) of Article 15.

(2) For the purpose of applying Article 15 no account shall be taken of wage-related pension payable under the legislation of Jamaica, but that pension shall be added to the amount of any benefit payable under that legislation in accordance with paragraph (2) of Article 15.

Article 19

Pre-Scheme Contributions

For the purpose of applying Articles 15 to 18 no account shall be taken under the legislation of Jamaica of any contribution paid or credited under the legislation of the United Kingdom for any period before 4 April 1966.

Article 20

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 15.

Article 21

Widow's Benefit

(1) Articles 14 to 20 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.

SECTION 3

BENEFITS FOR INDUSTRIAL ACCIDENTS AND INDUSTRIAL DISEASES

Article 22

General Provisions

(1) Where a person is employed in the territory of one Party and the legislation of the other Party applies to him in accordance with any of the provisions of Articles 7 to 11, he shall be treated under the legislation of the latter Party 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 the latter Party. Where benefit would be payable in respect of that claim if the person were in the territory of the latter 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 the other Party, but before he arrives in the latter territory sustains an accident, then, for the purpose of any claim to benefit in respect of that accident—

- (a) the accident shall be treated as if it had occurred in the territory of the Party whose legislation applied to him at the time the accident occurred; 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 a seasonal worker who is entitled to industrial injury benefit under the legislation of Guernsey goes to Jamaica, he shall be entitled to continue to receive such benefit for a period of not more than 13 weeks from the date of departure from Guernsey.

(4) 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 the other Party.

Article 23

Dual Attribution and Aggravation of an Industrial Disease

(1) Subject to paragraph (2), 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 Convention 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.

(2) Where a person has suffered an aggravation of an industrial disease for which benefit has been paid in accordance with paragraph (1), 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 24

Dual Entitlement

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

SECTION 4

FAMILY BENEFITS

Article 25

Orphan's Benefit

(1) In this Article "Party" means—

- (i) Great Britain, Northern Ireland, the Isle of Man or Guernsey, or
- (ii) Jamaica,

as the case may be.

(2) For the purpose of any claim to orphan's benefit under the legislation of one Party any period of presence or insurance completed under the legislation of, or in the territory of, the other Party, as the case may be, shall be treated as if it were a period of presence or insurance completed under the legislation of, or in the territory of, the former Party.

Status: This is the original version (as it was originally made).

(3) For the purpose of any claim to orphan's benefit under the legislation of Guernsey, a person who has completed an insurance period under the legislation of Jamaica, 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.

(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 Convention or otherwise, he shall be entitled to receive benefit only under the legislation of the Party in whose territory the orphan is ordinarily resident.

SECTION 5

Article 26

Death Grant under the Legislation of Jersey, Guernsey or Jamaica

(1) In this Article "Party" means—

- (i) Jersey or Guernsey, or
- (ii) Jamaica,

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 to 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 Convention 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 27

Recovery of Advance Payments and Overpayments of Benefit

(1) 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 Convention or otherwise, and the competent authority of the other Party afterwards decides that the person is entitled to benefit for that period, or

event, under its legislation, the competent authority of the latter 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 Convention, 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.

(2) Where a person has received social assistance under the legislation of Great Britain, Northern Ireland or the Isle of Man for a period for which that person subsequently becomes entitled to any benefit under the legislation of Jamaica, the competent authority of Jamaica, at the request of and on behalf of the competent authority of Great Britain, Northern Ireland or the Isle of Man, shall withhold from the benefit due for that period the amount by which the social assistance paid exceeded what would have been paid had the benefit under the legislation of Jamaica been paid before the amount of social assistance was determined, and shall transmit the amount withheld to the competent authority of Great Britain, Northern Ireland or the Isle of Man.

Article 28

Arrangements for Administration, Review and Mutual Assistance

(1) The competent authorities of the two Parties shall—

- (i) establish the administrative measures necessary for the application of this Convention, and
- (ii) establish the institutional mechanism for carrying out periodic reviews to ensure the correct application and operation of this Convention and its financial integrity, and
- (iii) agree the regularity and form of such reviews.

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

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

(4) The competent authorities of the two Parties shall assist one another on any matter relating to the application of this Convention 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 the 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 the 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 Jamaica, at the request of the competent authority of Guernsey, shall be treated as a medical board for determination of the disablement questions under the legislation of Guernsey.

(8) Certificates or other documents which, under the legislation of either Party are exempt, wholly or partly, from any taxes, legal dues, consular fees or administrative charges, shall be exempt from all such dues, fees or charges when submitted by the competent authorities of either Party, pursuant to national legislation or this Convention.

Status: This is the original version (as it was originally made).

(9) All statements, documents and certificates of any kind required to be produced for the purposes of this Convention shall be exempt from authentication by diplomatic or consular authorities.

(10) Any information about an individual which is sent in accordance with, and for the purposes of, this Convention to a Party by the other Party is confidential and shall be used only for the purpose of implementing this Convention and the legislation to which this Convention applies. Such information shall be governed by the laws applicable in either Party for the protection of privacy and confidentiality of personal data.

Article 29

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 to the corresponding benefit under the legislation of the other Party in so far as this corresponding benefit is payable in accordance with this Convention.

Article 30

Currency and Method of Payment

(1) Payment of any benefit in accordance with this Convention may be made in the currency of the Party whose competent authority makes the payment and any such payment shall constitute a full discharge of the obligation in respect of which payment has been made.

(2) Where the competent authority of one Party has made a payment of benefit on behalf of the competent authority of the other Party in accordance with Article 28 (5), any reimbursement of the amounts paid by the competent authority of the former Party shall be in the currency of the latter Party.

(3) Where a person in the territory of one Party is receiving benefit under the legislation of the other Party, it shall be payable by whatever method the competent authority of the latter Party deems appropriate.

Article 31

Resolution of Disputes

(1) The competent authorities of the Parties to this Convention 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, at the request of the competent authority of either Party, to an arbitration tribunal which shall be constituted in the following manner—

- (a) each Party shall appoint an arbitrator within three months from receipt of the demand for arbitration. The two arbitrators shall appoint a third arbitrator, who shall not be a national of either Party, within two months from the date on which the Party which was the last to appoint its arbitrator has notified the other Party of the appointment;

- (b) if within the prescribed period either Party should fail to appoint an arbitrator, the other Party may request the President of the International Court of Justice or, in the event of his having the nationality of one of the Parties, the Vice-President or next senior judge of that Court not having the nationality of either Party, to make the appointment. A similar procedure shall be adopted at the request of either Party if the two arbitrators cannot agree on the appointment of the third arbitrator.
- (3) The decision of the arbitration tribunal, shall be binding on both Parties. The decision shall be adopted by a majority vote. The arbitration tribunal shall determine its own rules of procedure.
- (4) The costs of the tribunal shall be borne in equal parts by the Parties. The tribunal may, however, in its decisions direct that a higher proportion of costs shall be borne by one of the Parties and this award shall be binding on both Parties.

PART VI

TRANSITIONAL AND FINAL PROVISIONS

Article 32

Prior Acquisition of Rights—Old Agreement replaced by New Convention

- (1) Upon the entry into force of this Convention the former Agreement shall terminate and shall be replaced by this Convention.
- (2) Any right to benefit acquired by a person in accordance with the former Agreement 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 later claim is allowed.
- (3) Any rights in course of acquisition under the former Agreement at the date of entry into force of this Convention shall be determined under this Convention.
- (4) Where, from the date of entry into force of this Convention, any claim to benefit has not been determined and entitlement arises before that date, the claim shall be determined under the former Agreement and shall be determined afresh under this Convention from its date of entry into force. The rate determined under this Convention shall be awarded from the date of its entry into force if this is more favourable than the rate determined under the former Agreement.
- (5) Benefit, other than lump sum payments, shall be payable in accordance with this Convention in respect of events which happened before the date of its entry into force, except that an accident which occurred or a disease which developed before that date shall not, solely by virtue of this Convention, 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 under this Convention, account shall be taken, where appropriate, of insurance periods and periods of residence, employment or 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 Convention.
- (7) For the purposes of paragraph (2) and for applying the first sentence of paragraph (5)—
 - (a) any right to benefit may, at the request of the person concerned, be determined afresh under this Convention with effect from the date of its entry into force provided that the request has been made within two years of that date and, if applicable, benefit awarded at the higher rate from that date;

Status: This is the original version (as it was originally made).

(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 Convention payment of benefit, and the payment of any arrears, shall be made in accordance with the legislation concerned.

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

Article 33

Entry Into Force

The Convention shall enter into force on a date to be specified in Notes exchanged by the Parties through the Diplomatic Channel notifying each other that all constitutional procedures as are necessary to give effect to this Convention have been finalised.

Article 34

Life of the Convention

This Convention shall remain in force for an indefinite period. Either Party may denounce it at any time by giving six months' notice in writing to the other Party.

Article 35

Rights on Termination of this Convention not replaced by another

In the event of the termination of this Convention and unless a new Convention containing provisions regulating the matter is made, any right to benefit acquired by a person in accordance with this Convention 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.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Convention.

Done in duplicate at London this 12th day of November 1996

For the Government of the United Kingdom of Great Britain and Northern Ireland

Nic Bonsor

For the Government of Jamaica

Portia Simpson

SCHEDULE 2

PROTOCOL

ARRANGEMENTS FOR THE IMPLEMENTATION OF THE CONVENTION
ON SOCIAL SECURITY BETWEEN THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND JAMAICA

The Government of the United Kingdom and the Government of Jamaica, with the aim of improving the administrative efficiency, cost effectiveness and financial integrity of their social security

programmes as they apply to persons covered by the Convention hereby agree to the Administrative Arrangements and Programmes of Mutual Assistance contained in this Protocol:

PART 1

Article 1

General

(1) The Administrative Arrangements (Part 2) and the Programmes of Mutual Assistance (Part 3) contained in this Protocol are concluded in conformity with Article 28 of the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica.

(2) The competent authorities designated in Article 3(1) shall agree upon joint procedures and forms necessary for the implementation of the Administrative Arrangements set out in Part 2, and the Management Committee designated in Article 3(2) shall agree upon the instruments necessary for the implementation of the Programmes of Mutual Assistance provided for in Part 3.

Article 2

(1) In accordance with this Protocol and instruments concluded under its terms, the competent authorities of the Parties shall assist each other in administering the laws (and regulations, rules and administrative practices thereunder) in Article 2 of the Convention and, when appropriate, the Convention itself.

(2) The competent authorities shall not carry out administrative measures or practices that are at variance with the statutes, regulations or administrative practices of either Party.

(3) All documents required to be tendered for official purposes under the Convention, and/or arising out of this Protocol or future arrangements and instruments, shall be presumed to be official documents so long as they are on official stationery or they bear the official seal or stamp of the relevant Party.

Article 3

Establishment

1) For the purposes of Part 2

(i) the following bodies have been designated the competent authorities for the purposes of the application of the Convention:

(a) in the United Kingdom:

(i) in Great Britain:

For all contingencies, including pension claims for Northern Ireland, except
Articles 5 to 10,
Department of Social Security
Pensions and Overseas Benefits Directorate
Tyneview Park
Whitley Road
Benton

Status: This is the original version (as it was originally made).

Newcastle upon Tyne
England
NE98 1BA
For Articles 5 to 10,
Contributions Agency
Overseas Contributions (RA)
Department of Social Security
Longbenton
Newcastle upon Tyne
England
NE98 1YX

(ii) in Northern Ireland:

For all contingencies except pension claims,
Social Security Agency
Overseas Branch
Commonwealth House
Castle Street
Belfast
Northern Ireland
BT1 1DX

(iii) in the Isle of Man:

For all provisions of the Convention,
Isle of Man Department of Health and Social Security
Markwell House
Market Street
Douglas
Isle of Man

(iv) in Jersey:

For all provisions of the Convention,
Employment and Social Security Department
Philip Le Feuvre House
La Motte Street
St Helier
Jersey
Channel Islands

(v) in Guernsey:

For all provisions of the Convention,
Guernsey Social Security Authority
Edward T Wheadon House
Le Truchot
St Peter Port

Guernsey
Channel Islands
GY1 3WH

- (b) in Jamaica:
Ministry of Labour, Social Security and Sport
14 National Heroes Circle
PO Box 10
Kingston 5
Jamaica.

(ii) In accordance with Article 28 of the Convention the following bodies have been designated liaison offices between the competent authorities of both Parties for the purpose of applying the Convention:

- (a) in the United Kingdom:

The competent authorities listed in Article 3(1)(i)(a).

- (b) in Jamaica:

The competent authority listed in Article 3(1)(i)(b).

(iii) The competent authorities may communicate directly with one another and with any person or institution affected by the Convention or with their legal representative.

(iv) The competent authorities shall decide the texts of any certificates, reports and forms to be used for the purpose of undertaking the tasks laid down in these Arrangements.

2) For the purpose of Part 3

(i) The Programme of Mutual Assistance shall be under the general direction of a Management Committee (hereinafter referred to as the “Committee”), whose function shall be to undertake the ongoing reviews of the policy and procedures relating to the programme.

- (ii) The Committee shall consist of four members:

- (a) For the UK:

- (i) The Territorial Director, Benefits Agency, Department of Social Security, or his designee.
(ii) The Head of International Relations Branch, Department of Social Security, or his designee.

- (b) For Jamaica:

- (i) The Hon. Minister of Labour, Social Security and Sport or his/her designees.
(ii) The Hon. Attorney-General or his/her designees.

PART 2

Article 4

Administrative Arrangements

(1) In cases arising under Articles 7 and 9(2) of the Convention, the competent authority of the Party whose legislation is being applied shall issue to the insured person or to his employer, on

application, a certificate showing that the insured person remains liable for contributions under that legislation.

(2) Where the last sentence of Article 9(2), or Article 11 of the Convention, applies and the employer has made an application to the competent authority whose legislation is being applied for an extension of the period of liability, the application shall be dealt with by correspondence between the competent authorities of the two Parties.

(3) Where a person is employed in the territory of one Party but chooses that the legislation of the other Party shall apply to him in accordance with Article 10(3) of the Convention, the competent authority of the latter Party shall notify the competent authority of the former Party of the choice the person has made.

Article 5

Application of the Special Provisions for Invalidity Pension

(1) For the implementation of Article 13 of the Convention, the competent authority of one Party shall provide the competent authority of the other Party with such information as may be required.

(2) When a person claims Invalidity Pension under the legislation of one Party and Article 13(3) of the Convention may apply, the competent authority which received the claim shall satisfy itself whether or not a claim for Invalidity Pension has been made under the legislation of the other Party.

Article 6

Application of the Special Provisions for Retirement Pensions

1) Where a claim to benefit under Articles 14, 15 and 21 of the Convention is received by the competent authority of one Party and the person declares that insurance has been paid under the legislation of the other Party, details of the claim and all relevant information shall be issued to other interested competent authorities as follows:

(i) Where the claim is made to one of the competent authorities in the United Kingdom that competent authority shall:

- (a) send two copies of the appropriate liaison form to the competent authority in Jamaica;
- (b) liaise with any other competent authority in the United Kingdom under whose legislation the claimant has been insured.

The latter competent authority, or competent authorities, in the United Kingdom shall send two copies of the appropriate liaison form to the competent authority in Jamaica;

- (c) the competent authority in Jamaica shall return one copy of the liaison forms which it receives to the competent authority which issued the form and provide the information requested.

(ii) Where the claim is made to the competent authority in Jamaica that competent authority shall:

- (a) send two copies of the appropriate liaison form to each of the competent authorities in the United Kingdom with which the claimant has been insured;
- (b) where necessary, each of the competent authorities in the United Kingdom shall liaise to exchange insurance records;
- (c) each of the competent authorities in the United Kingdom shall return one copy of the liaison form to the competent authority in Jamaica and provide the information requested.

2) Information on liaison forms about the claimants, the insured person and any dependants shall, where necessary, be verified by the issuing competent authority.

3) The competent authority of each Party shall thereafter notify each other of any fact relevant to the determination of the claim.

4) The decision on a pension claim shall be sent direct to the claimant by the competent authority.

Article 7

Application of the Special Provisions for Industrial Accidents and Industrial Diseases

(1) For the implementation of Articles 22, 23 and 24 of the Convention, the competent authority of one Party shall provide the competent authority of the other Party with such information as may be required or as may be possible to be secured.

(2) Where a person resident in the territory of one Party claims benefit in respect of an industrial accident or industrial disease under the legislation of the other Party, and Article 23 of the Convention may apply, the competent authority of the latter Party shall enquire, from the competent authority of the former Party, whether a claim to benefit in respect of an industrial accident or industrial disease has been made to that Party.

Article 8

Application of the Special Provisions for Orphan's Benefit

For the implementation of Article 25 of the Convention, the competent authority of one Party shall provide the competent authority of the other Party with such information as may be required.

Article 9

Application of the Special Provisions for Death Grant under the Legislation of (i) Jersey and Guernsey, and (ii) Jamaica

(1) For the implementation of Article 26(2) of the Convention, the competent authority of one Party shall, on request, provide the competent authority of the other Party with such information regarding periods of insurance as may be required.

(2) Where a person resident in the territory of one Party claims Death Grant under the legislation of the other Party, and Article 26(4) of the Convention may apply, the competent authority of the latter Party shall enquire, from the competent authority of the former Party, whether a claim to Death Grant has been made to that Party.

Article 10

Recovery of Overpaid Benefit

(1) For the implementation of Article 27 of the Convention the competent authority which has overpaid an amount of benefit and wishes to recover that overpayment from the arrears of benefit held by the other Party, shall notify the latter Party of its request either by the appropriate form or by letter.

Status: This is the original version (as it was originally made).

(2) The arrears of benefit available when the request is received, or which later become available after the request, shall be sent to the competent authority which is to make the recovery. After recovering the appropriate amount under Article 27 the balance of the arrears shall be paid to the beneficiary. Confirmation of the amount received and the amount paid to the beneficiary shall be notified to the competent authority which sent the arrears.

Article 11

Medical Examination

(1) The competent authority of one Party wishing to have a person medically examined whilst resident in the territory of the other Party shall provide the competent authority of the latter Party with details of the medical examination it requires to be made.

(2) The competent authority of the latter Party shall make the necessary arrangements for the medical examination of the person and forward the resulting reports to the competent authority of the former Party.

Article 12

Miscellaneous Provisions

(1) Any claim or appeal to the competent authorities of the territory in which a person resides but proper to the competent authorities of the other Party shall be endorsed with the date of its receipt and sent to the competent authorities of the other Party.

(2) The competent authority of one Party shall obtain, where necessary, from the competent authority of the other Party, any declaration or other information which may be required concerning any person for the purpose of the application of the Convention.

(3) Where a competent authority of one Party is unable to collect contributions from an employer (or person) in the territory of the other Party, the competent authority of the latter Party shall provide assistance to collect the contributions. The assistance shall be limited to passing the demand for contributions, with instructions on how the contributions can be paid, to the liable employer (or person).

PART 3

Programmes of Mutual Assistance

Article 13

Functions of the Committee

(1) The Committee, established under Part 1, Article 3(2), shall be responsible for the co-ordination and any modification of the Programmes of Mutual Assistance to be set out in Instruments in accordance with this Protocol. The Committee shall review the various periods stipulated for performance of the functions to be set out in additional instruments in order to ensure that required standards are met to the extent possible or to modify the stipulated periods, where appropriate.

(2) Any modification to the programme of Mutual Assistance shall be set out in writing. Additional instruments to the Protocol shall be signed by the members of the Committee, or their designees.

(3) The Committee shall be responsible, inter alia, for exchanging information and statistics related to the workloads and other administrative matters associated with the programme of assistance. The form and content of the information and statistics to be exchanged shall be settled by the Committee at its first meeting. The Committee may modify such form and content as may be appropriate in given circumstances.

(4) The Committee shall meet, as required, to review progress and establish programme guidance and priorities, provided however that such meetings shall not normally be held more than once every two years. Meetings of the Committee shall normally be held alternatively in Jamaica and the United Kingdom.

Article 14

Expenses

(1) Subject to paragraph (3) below, in applying Article 2 of the Convention the assistance rendered under this Protocol shall be without charge to either Party. The foregoing notwithstanding, the Committee shall periodically review the expenses involved in providing such assistance with a view towards balancing the costs incurred by each side.

(2) The United Kingdom undertakes to assist the competent authorities of Jamaica in the areas of technical assistance to enhance the capabilities of the latter Party to carry out fully its obligations pursuant to this Protocol.

(3) The Committee may decide, on a case by case basis, that items of assistance which fall to be implemented in the context of the programme are susceptible to attracting a User Fee, to be negotiated on the basis of cost to the Party executing a particular request.

Article 15

Confidentiality of Information

(1) Pursuant to Article 28(10) of the Convention, information conveyed by either Party about an individual and required solely for the purposes of implementing this Protocol shall be used exclusively for the purpose of administering the Convention. Such information shall be governed by the laws applicable in either Party for the protection of privacy and confidentiality of personal data.

(2) In no case shall a competent authority of either Party be expected to furnish information which is not obtainable under the laws of that, or the other Party.

Article 16

Interpretation or Application

Any disagreement regarding the interpretation or application of this Protocol or its Instruments shall be resolved by the Committee, or failing that, by such other methods as may be resorted to, pursuant to Article 31(1) of the Convention. This Article is without prejudice to the rights and obligations of either Party under Article 31(2) and (3) of the Convention.

Status: This is the original version (as it was originally made).

Article 17

Entry into Force and Period of Operation

(1) This Protocol shall enter into force at the same time as the Convention and shall form an integral part of the Convention.

(2) This Protocol shall remain in force for an indefinite period. The competent authorities of the United Kingdom and Jamaica undertake to initiate the programme of assistance specified in this Protocol and to be set out in future instruments as soon as is practicable.

(3) The competent authorities of either Party may terminate programmes of assistance by providing written notification to the competent authorities of the other Party. Such notice of termination shall not affect either Party's rights or obligations under the Convention, or those arising under this Protocol.

In witness whereof, the undersigned, duly authorised thereto by their respective Governments have signed this Protocol.

Done in duplicate at London this 12th day of November 1996

For the Government of the United Kingdom of Great Britain and Northern Ireland

Nic Bonsor

For the Government of Jamaica

Portia Simpson

SCHEDULE 3

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF JAMAICA

[NO. 1]

No. 20/97

The British High Commission present their compliments to the Ministry of Foreign Affairs and Foreign Trade and have the honour to refer to the Convention on Social Security and the Protocol thereto between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica signed at London on 12 November 1996 and, in accordance with Article 33 of that Convention, to notify the Ministry of Foreign Affairs and Foreign Trade that the Government of the United Kingdom has completed the constitutional and administrative requirements necessary for the implementation thereof.

The British High Commission have the honour to propose that, if the Government of Jamaica has similarly completed its constitutional and administrative requirements, the Convention and Protocol shall enter into force on 1 April 1997.

The High Commission avail themselves of this opportunity to renew to the Ministry of Foreign Affairs and Foreign Trade the assurance of their highest consideration.

British High Commission

KINGSTON

25 February 1997.

[NO. 2]

The Ministry of Foreign Affairs and Foreign Trade presents its compliments to the British High Commission and has the honour to acknowledge receipt of the High Commission's Note No. 20/97 of 1997 February 25, notifying completion by the Government of the United Kingdom of Great Britain and Northern Ireland of its constitutional and administrative requirements necessary for the implementation of the Convention on Social Security and the Protocol thereto between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica signed at London on 1996 November 12.

The Ministry of Foreign Affairs and Foreign Trade has the honour to advise that the constitutional and administrative arrangements necessary for the implementation of the said Convention and Protocol by the Government of Jamaica have also been completed. In accordance with Article 33 of that Convention therefore, the Convention and Protocol shall enter into force on 1997 April 1.

The Ministry of Foreign Affairs and Foreign Trade avails itself of this opportunity to renew to the British High Commission, the assurances of its highest consideration.

Kingston, 1997 March 5

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 so as to give effect to the Convention on social security and Protocol signed on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica.

The Convention and Protocol (set out in Schedules 1 and 2 respectively to this Order) relate to reciprocity in invalidity benefit, retirement pension and widow's benefit, orphan's benefit and benefits for industrial accidents and industrial diseases.

This Order does not impose any costs on business.