

SCHEDULE 1

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

PART IV

BENEFIT PROVISIONS

SECTION 2

RETIREMENT PENSION AND SURVIVOR'S BENEFIT

ARTICLE 17

General provisions

(1) Subject to paragraphs (2) to (4) and Article 22, 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 18 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 18.

(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 18. 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 Article 18(4) to (6) and (8) insurance periods completed under the legislation of any other part of either Party.

ARTICLE 18

Pro-rata Pensions

(1) Subject to Articles 19 to 23, 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) For the purposes of determining entitlement to retirement pension, no account shall be taken of any increase for dependent children, but any such increase shall be payable in accordance with Article 22.

(3) In accordance with Article 13, 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.

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

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

- (a) 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 if the combined total of the number of weeks of insurance, after conversion to contribution weeks in accordance with Article 13(9), if appropriate, is less than fifty; or
- (b) Jersey amount to less than an annual contribution factor of 1.00; or
- (c) Guernsey amount to less than fifty weeks;

those periods shall be treated in accordance with paragraph (5) or (6).

(5) Insurance periods under paragraphs (4) and (8) 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.

(6) Where no pension is, or would be, payable under paragraph (5), insurance periods under paragraph (4) shall be treated as if they had been completed under the legislation of Ireland.

(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.

(8) Where all the insurance periods completed by a person under the legislation of Ireland amount to less than one year those periods shall be treated as if they had been completed under the legislation of the United Kingdom in accordance with paragraph (5).

ARTICLE 19

Insurance periods to be taken into account

(1) For the purpose of applying Article 18 the competent authority of either Party 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 its legislation 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) Where, in relation to any claim to receive old age benefit or survivor's benefit, it is found that the insured person was paid sickness benefit, disability benefit or invalidity pension as the case may be, by virtue of reciprocal provisions in the earlier agreements, for any continuous period of not less than 26 weeks the contributions credited to him in respect of that period shall—

- (a) if before the beginning of that period he has paid at least 156 contributions of the appropriate class under the legislation of one Party, but less than 156 contributions of the appropriate class under the legislation of the other Party, be treated as credited to him under the legislation of the first Party; or
- (b) if before the beginning of that period he has paid at least 156 contributions of the appropriate class under the legislation of both Parties, be treated as credited to him under the legislation of the Party under whose legislation the benefit or pension was paid during that period; or

- (c) if before the beginning of that period he has paid less than 156 contributions of the appropriate class under the legislation of either Party be treated as credited to him under the legislation of each Party for that part of that period which bears the same relation to the whole as the number of the appropriate class paid by him under that legislation before the beginning of that period bears to the total number of contributions of the appropriate class paid by him under the legislation of the two Parties before the beginning of that period.

ARTICLE 20

Overlapping periods

For the purpose of applying Article 18:

- (a) where a compulsory contribution period or an equivalent period completed under the legislation of one Party coincides with a voluntary contribution period completed under the legislation of the other Party, only the compulsory contribution period or equivalent period shall be taken into account, provided that the amount of pension payable under the legislation of the latter Party under Article 18(3) 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, 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 21

Benefits to be excluded

(1) For the purpose of applying Article 18 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;

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(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 Article 18(3).

(2) For the purpose of applying Article 18 no account shall be taken of the following payments under the legislation of Ireland:

- (a) any increase for child dependants;
- (b) any increase where the person has attained pensionable age and is living alone;
- (c) any increase where the person has attained the age of eighty years;

but such payments shall, where appropriate, be added to the amount of benefit payable under that legislation in accordance with Article 18(3).

ARTICLE 22

Increases for dependent children

(1) This Article shall apply to any increase of a retirement pension or a survivor's benefit payable under the legislation of either Party in respect of a dependent child or dependent children.

(2) Such increase shall be payable in accordance with the following provisions:

- (a) where a retirement pension or a survivor's benefit is payable only under the legislation of one Party, the increase shall be payable under the legislation of that Party;
- (b) where a retirement pension or a survivor's benefit is payable under the legislation of both Parties and an increase would otherwise be payable under the legislation of both Parties in respect of the same child, the increase shall be payable under the legislation of the Party in whose territory the pensioner, widow or widower is ordinarily resident at the date of entitlement to the increase.

(3) Where an increase cannot be paid under paragraph (2)(b) because the pensioner or widow is not ordinarily resident in the territory of either Party, the increase shall be payable under the legislation of the Party in whose territory the pensioner or widow was last ordinarily resident.

ARTICLE 23

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 18.

ARTICLE 24

Survivor's benefit

(1) Articles 17 to 23 shall also apply, with such modifications as the differing nature of the benefits shall require, to survivor's benefit.

(2) Where survivor'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.

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

(4) A person who is entitled to receive survivor's benefit under the legislation of Guernsey while he is in Ireland, shall not be credited with a Class 3 contribution in respect of every week during which

that benefit is payable to him, 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 his spouse's yearly average of reckonable contributions at the date of her death. If the rate of retirement pension payable to such a person would be less than the rate of survivor's benefit formerly payable it shall be increased to that of the survivor's benefit.