

1984 No. 90

SOCIAL SECURITY

The Social Security (Israel) Order (Northern Ireland) 1984

Made 8th March 1984

Coming into operation 1st April 1984

In exercise of the powers conferred on me by section 134 of the Social Security (Northern Ireland) Act 1975(a) and Article 17 of the Child Benefit (Northern Ireland) Order 1975(b) and of all other powers enabling me in that behalf, I hereby make the following order:

Citation, commencement and interpretation

1. This order may be cited as the Social Security (Israel) Order (Northern Ireland) 1984 and shall come into operation on 1st April 1984.

(2) In this order "the principal order" means the National Insurance and Industrial Injuries (Reciprocal Agreement with Israel) Order (Northern Ireland) 1958(c).

Amendment of principal order and modification of Act and Order

2. The principal order shall be amended in accordance with, and accordingly the Social Security (Northern Ireland) Act 1975, and Part II of the Child Benefit (Northern Ireland) Order 1975 and any regulations made under it, shall be modified to such extent as may be required to give effect to, the provisions contained in the Protocol set out in the Schedule to this order, so far as the same relate to Northern Ireland.

Dated this 8th day of March 1984

James Prior
One of Her Majesty's Principal
Secretaries of State

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- (a) 1975 c. 15; section 134 was amended by section 20(3) of, and extended by section 20(4) of, the Social Security (Miscellaneous Provisions) Act 1977 (1977 c. 5), and subsection (1A) of section 134 was inserted by Article 7(1) of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25))
- (b) S.I. 1975/1504 (N.I. 16); Article 17 was amended by Article 16 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), and paragraph (1A) of Article 17 was inserted by Article 7(2) of the Social Security (Northern Ireland) Order 1981
- (c) S.R. & O. (N.I.) 1958 No. 32 (p. 443)

SCHEDULE

PROTOCOL

BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF ISRAEL AMENDING THE CONVENTION ON SOCIAL SECURITY
SIGNED AT LONDON ON 29 APRIL 1957

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

Desiring to conclude a Protocol to amend the Convention on Social Security signed at London on 29 April 1957, hereinafter referred to as "the Convention";

Have agreed as follows:

ARTICLE I

Article 1 of the Convention shall be amended as follows:

(a) In paragraph (3) for the words "(or the other) Contracting Party" there shall be substituted the words "of the Contracting Parties;"

(b) For paragraph (4) there shall be substituted the following:

" "competent authority" means the authority responsible for the social security schemes in all or part of a territory of each Party; in relation to the territory of the United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland, and the Isle of Man Board of Social Security, and, in relation to Israel, the Minister of Labour and Social Affairs;"

(c) After paragraph (5) there shall be inserted a new paragraph as follows:

"(5A) "children's allowances" means, in relation to the United Kingdom, child benefit payable under the legislation of the United Kingdom, and, in relation to Israel, children's allowance payable under the legislation of Israel;"

(d) For paragraph (8) there shall be substituted the following:

" "insurance period" means a period in respect of which contributions appropriate to the benefit in question have been paid, credited, or treated as paid under the legislation of one of the Contracting Parties;"

(e) For paragraphs (11), (12) and (13) the following paragraphs shall be substituted:

"(11) "widow's benefit" means, in relation to the United Kingdom; widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of the United Kingdom and, in relation to Israel, survivor's benefit (except orphan's benefit) payable under the legislation of Israel;

(12) "orphan's benefit" means, in relation to the United Kingdom, a guardian's allowance payable under the legislation of the United Kingdom and, in relation to Israel, a survivor's benefit payable in respect of a double orphan under the legislation of Israel;

(13) "benefit in respect of an industrial injury" means, in relation to the United Kingdom:

(a) sickness benefit or invalidity pension payable in respect of incapacity for work resulting from

(i) personal injury caused by an accident arising out of and in the course of employment; or

(ii) an industrial disease or personal injury due to the nature of any employment

which is payable within a period of ninety days (disregarding Sundays) beginning with the day of the accident or the date of onset of the disease;

(b) disablement benefit;

(c) industrial death benefit;

and, in relation to Israel, industrial injury benefit payable under the legislation of Israel;

- (14) "competent institution" means the authority from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that authority is situated;
- (15) other terms in this Convention have the meaning given to them under the applicable legislation."

ARTICLE II

Article 2 of the Convention shall be amended to read as follows:

"(1) The provisions of this Convention shall apply,

(a) in relation to the United Kingdom, to:

- (i) the Social Security Acts 1975 to 1982 and the Social Security (Northern Ireland) Acts 1975 to 1982;
- (ii) the Social Security Acts 1975 to 1982 (Acts of Parliament) as applied to the Isle of Man by Orders made under the provisions of the Social Security Act 1982 (an Act of Tynwald);
- (iii) the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975, and the Child Benefit Act 1975 (an Act of Parliament) as applied to the Isle of Man by Orders made under the provisions of the Social Security Act 1982 (an Act of Tynwald);

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

(b) in relation to Israel, to:

the National Insurance Law (Consolidated Version) 5728-1968, as far as it applies to the insurance branches included in this Convention.

(2) Subject to the provisions of paragraphs (3), (4) and (5) of this Article, this Convention shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

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

(4) This Convention shall apply to any legislation which relates to a branch of social security not covered by the legislation specified in paragraph (1) of this Article only if the two Parties make an agreement to that effect.

(5) This Convention shall not apply to legislation on social security of the Institutions of the European Communities nor to any convention on social security which either Party has concluded with a third party nor to any laws or regulations which amend the legislation specified in paragraph (1) of this Article for the purpose of giving effect to such a convention but shall not prevent either Party from taking into account under its legislation the provisions of any other convention which that Party has concluded with a third party provided this shall not reduce the amount of benefit payable under the provisions of this Convention."

ARTICLE III

Article 4 of the Convention shall be amended as follows:

(a) At the beginning of the first line insert "(1)";

(b) After "(a)" there shall be inserted the words "for the first two years of that employment";

(c) There shall be added the following paragraph:

"(2) Where the person's employment continues for longer than two years, the legislation of the latter Party shall continue to apply to him provided that the competent authorities of the two Parties agree thereto, and provided that the employment has not lasted for longer than five years."

ARTICLE IV

For paragraph (2) of Article 5 of the Convention there shall be substituted the following:

“(2) Subject to the provisions of paragraph (1) of this Article, where a person is employed in:

- (i) the government service, or
- (ii) the public service, or
- (iii) the maritime or airline undertakings

of one Party in the territory of the other Party and is not ordinarily resident in that territory, or a person is employed in the private service of a person referred to in sub-paragraph (i) or (ii) of this paragraph and is not ordinarily resident in that territory, then those provisions of the legislation of the former Party which concern the payment of contributions shall apply to him as if he were employed in the territory of that Party and the legislation of the latter Party shall not apply to him.”

ARTICLE V

Article 8 of the Convention shall be amended as follows:

- (a) In paragraph (1) after the words “widow’s benefit” there shall be inserted the word “or”; and the words “or death benefit” shall be omitted;
- (b) [Amendment to paragraph (1) of the Hebrew text which does not affect the English text;]
- (c) There shall be added the following paragraph:

“(3) Except where otherwise provided for in this Convention, pensions and other cash benefits may not be reduced, modified, suspended or withdrawn on account of the recipient residing in the territory of the other Contracting Party.”

ARTICLE VI

Article 10 of the Convention shall be amended as follows:

- (a) In paragraph (1) for the word “woman” there shall be substituted the word “person”; for the words “death benefit” there shall be substituted the words “benefit in respect of an industrial injury”; and for the word “she” there shall be substituted the words “that person”;
- (b) In paragraph (2) for the words “death benefit” there shall be substituted the words “benefit in respect of an industrial injury”.

ARTICLE VII

A new Article 10A shall be inserted after Article 10 of the Convention as follows:

“SPECIAL PROVISIONS RELATING TO THE APPLICATION OF THE LEGISLATION OF THE TERRITORY OF THE UNITED KINGDOM AND ISRAEL

Article 10A

(1) For the purpose of calculating entitlement under the legislation of the United Kingdom to an old age pension in accordance with Article 12 of this Convention, or to widow’s benefit in accordance with Article 14, insurance periods completed under the legislation of Israel before 6 April 1975 shall be treated as if they had been insurance periods completed under the legislation of the United Kingdom.

(2) For the purpose of calculating entitlement under the legislation of the United Kingdom to an old age pension in accordance with Article 12 of this Convention, to widow’s benefit in accordance with Article 14, or to maternity allowance in accordance with Article 19, insurance periods completed as a self-employed person or as a non-employed person or credited insurance periods under the legislation of Israel after 5 April 1975 shall be treated as if they had been insurance periods completed as a self-employed person or as a non-employed person, or credited insurance periods as the case may be, under the legislation of the United Kingdom.

(3) Subject to the provisions of Article 11(2) of this Convention, for the purpose of calculating an earnings factor for assessing entitlement to any benefit referred to in Articles 12, 14 or 19 of this Convention and provided under the legislation of the United Kingdom, a person shall be treated for each week beginning in a relevant tax year commencing on or after 6 April 1975, the whole of which week is an insurance period completed as an employed person under the legislation of Israel, as having paid a contribution as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement under the legislation of Israel to an old age pension in accordance with Article 12 of this Convention or to widow's benefits in accordance with Article 14 or to maternity allowance in accordance with Article 19, insurance periods completed under the legislation of the United Kingdom before 6 April 1975 shall be treated as if they had been insurance periods completed under the legislation of Israel.

(5) For the purpose of calculating entitlement under the legislation of Israel to an old age pension in accordance with Article 12 of this Convention, or to widow's benefit in accordance with Article 14, or to maternity allowance in accordance with Article 19, any earnings factor achieved in any tax year commencing on or after 6 April 1975 under the legislation of the United Kingdom shall be converted by the competent authority of the United Kingdom to an insurance period by dividing the earnings factor 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.

(6) Where it is not possible to determine accurately the periods of time in which certain insurance periods were completed under the legislation of one Party, such periods shall be treated as if they did not overlap with insurance periods completed under the legislation of the other Party, and they shall be taken into account to the best advantage of the beneficiary."

ARTICLE VIII

For the heading and Article 11 of the Convention there shall be substituted the following:

"OLD AGE PENSIONS AND WIDOW'S BENEFIT

Article 11

(1) Where a person is entitled to an old age pension, otherwise than by virtue of the provisions of this Convention, that pension shall be payable and the provisions of Article 12 of this Convention shall not apply under that legislation. For the purposes of this paragraph, "old age pension" shall not include a Category B retirement pension payable to a married woman under the legislation of the United Kingdom by virtue of the contributions of her husband.

(2) For the purpose of determining entitlement to additional component payable under the legislation of the United Kingdom, no account shall be taken of any insurance period completed under the legislation of Israel; and for the purposes of this Article and Article 12 of this Convention additional component shall be treated as a separate benefit to which the provisions of Article 12 do not apply."

ARTICLE IX

For the heading and Article 12 of the Convention there shall be substituted the following:

"Article 12

(1) The provisions of this Article shall apply for the purpose of determining entitlement to old age pension in respect of a person under the legislation of one Party under which there is no entitlement in respect of that person in accordance with the provisions of Article 11 of this Convention.

(2) In accordance with the provisions of Article 10A of this Convention, the insurance authority of that Party shall determine:

- (a) the amount of the theoretical pension which would be payable if all the insurance periods completed by that person 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 by him under the legislation of that Party bears to the total of all the insurance periods which he has completed under the legislation of both Parties.

The proportionate amount thus calculated shall be the rate of pension actually payable to that person by the competent institution.

- (3) For the purpose of applying the provisions of paragraph (2) of this Article:
 - (a) the insurance authority of the United Kingdom shall take account only of insurance periods (completed under the legislation of either Party) which would be taken into account for the determination of pensions under the legislation of the United Kingdom if they were completed under that legislation and, where appropriate, shall take into account in accordance with that legislation insurance periods completed by a spouse;
 - (b) no account shall be taken of any graduated contributions paid under the legislation of the United Kingdom before 6 April 1975 and the amount of any graduated pension payable by virtue of such contributions shall be added to the amount of any pension payable in accordance with paragraph (2) of this Article under that legislation;
 - (c) no account shall be taken under the legislation of the United Kingdom of any increase of benefit payable under that legislation by virtue of deferred retirement, but any such increase of benefit payable under that legislation shall be added to any benefit payable under that legislation which has been calculated in accordance with paragraph (2) of this Article;
 - (d) 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 either Party in accordance with paragraph (2) of this Article shall be increased by the amount by which the pension payable in accordance with that legislation would have been increased if all voluntary contributions paid under that legislation had been taken into account;
 - (e) where a period for which contributions have been paid under the legislation of one Party, other than a voluntary contribution period, coincides with a period for which contributions have been credited under the legislation of the other Party, only the former period shall be taken into account.

(4) For the purpose of applying the provisions of paragraphs (1) to (3) of this Article, no account shall be taken under the legislation of Israel of any contribution paid or credited under the legislation of the United Kingdom for any contribution year which ended before 1 April 1954.

(5) The right to an old age pension under the legislation of Israel shall remain conditional on the beneficiary having been a resident of Israel or the United Kingdom or the Isle of Man immediately before becoming entitled to an old age pension.

(6) Any provisions under the legislation of Israel regarding exemption of Israeli residents from qualifying periods giving entitlement to old age pension will not apply to the provisions of paragraph (5) of this Article in relation to old age pension."

ARTICLE X

For the heading and Article 13 of the Convention there shall be substituted the following:

"Article 13

Where a person does not simultaneously satisfy the conditions for entitlement to an old age pension under the legislation of both Parties, his entitlement under the legislation of one Party shall be established as and when he satisfies the conditions laid down by the legislation of that Party: The provisions of Article 12 of this Convention shall be applied

where there is no entitlement under the provisions of Article 11 of this Convention to an old age pension under the legislation of that Party and his entitlement shall be determined afresh under those provisions when the conditions under the legislation of the other Party are satisfied."

ARTICLE XI

For the heading and Article 14 of the Convention there shall be substituted the following:

"Article 14

(1) Subject to the provisions of paragraph (2) of this Article, the provisions contained in Articles 11 to 13 of this Convention shall apply, with such modifications as the differing nature of the benefits shall require, to widow's benefits.

(2) The right to a widow's pension under the legislation of Israel shall remain conditional on the beneficiary and the deceased having been residents of Israel or of the United Kingdom or the Isle of Man at the time of the death.

(3) Any provisions under the legislation of Israel regarding exemption of Israeli residents from qualifying periods giving entitlement to widow's pension will not apply to the provisions of paragraph (2) of this Article in relation to widow's pension.

(4) Vocational training and subsistence allowance for widows and orphans under the legislation of Israel are payable only to persons if they reside in Israel and only for as long as they are actually present in Israel.

(5) Funeral grant under the legislation of Israel shall not be payable in respect of a person who died outside Israel and was not a resident of Israel on the day of his death."

ARTICLE XII

A new Article 14A shall be inserted after Article 14 of the Convention as follows:

"ORPHAN'S BENEFIT

Article 14A

(1) Where orphan's benefit is payable to a person under the legislation of the United Kingdom it shall not cease to be payable solely because that person and/or the orphan in respect of whom it is payable is resident in the territory of Israel.

(2) Where orphan's benefit is payable to an orphan under the legislation of Israel it shall not cease to be payable solely because that person is ordinarily resident in the United Kingdom.

(3) The right to an orphan's benefit under the legislation of Israel shall remain conditional on the orphan and the deceased having been residents of Israel or of the United Kingdom or the Isle of Man at the time of the death.

(4) Vocational training and subsistence allowance for widows and orphans under the legislation of Israel are payable only to persons if they reside in Israel and only for as long as they are actually present in Israel.

(5) Any provisions under the legislation of Israel regarding exemption of Israeli residents from qualifying periods giving entitlement to orphan's benefit will not apply to the provisions of paragraph (3) of this Article in relation to orphan's benefit.

(6) Where, but for the provisions of this paragraph, orphan's benefit would be payable under the legislation of both Parties, benefit shall be payable only under the legislation of the Party in whose territory the orphan is resident."

ARTICLE XIII

In the heading to Article 15 of the Convention there shall be added the words "AND DISEASES".

ARTICLE XIV

Paragraph (3) of Article 18 of the Convention shall be omitted.

ARTICLE XV

For Article 19 of the Convention there shall be substituted the following:

“(1) For the purposes of a claim to receive maternity allowance under the legislation of the United Kingdom, a woman in the territory of the United Kingdom who has paid contributions in respect of gainful employment during a period, or periods, amounting to at least twenty-two weeks between the date of her last arrival in the territory of the United Kingdom and the date of her claim for maternity allowance, shall be treated as if any insurance period completed by her under the legislation of Israel were an insurance period completed by her under the legislation of the United Kingdom.

(2) For the purpose of a claim to receive maternity allowance under the legislation of Israel, a woman who gives birth in the territory of Israel and has completed insurance periods amounting to at least five months under the legislation of Israel between the date of her last arrival in the territory of Israel and the date of her confinement and who is not entitled to maternity allowance under the legislation of the United Kingdom shall be treated as if any contributions paid by her as an employed earner or self-employed person under the legislation of the United Kingdom were an insurance period completed by her under the legislation of Israel.

(3) When calculating the rate of benefit in accordance with paragraph (2) of this Article only income accrued in the territory of Israel shall be taken into account.”

ARTICLE XVI

For the heading and Article 20 of the Convention there shall be substituted the following:

“CHILDREN’S ALLOWANCES

Article 20

(1) Entitlement to children’s allowances shall be determined in accordance with the legislation of the Contracting Party in whose territory the children reside.

(2) Where entitlement to children’s allowances exists under the legislation of both Contracting Parties they shall be paid only by the Contracting Party in whose territory the children reside.”

ARTICLE XVII

Article 23 of the Convention shall be omitted.

ARTICLE XVIII

In paragraph (2) of Article 25 of the Convention for the words “(or the other) Party” there shall be substituted the words “of the Contracting Parties”.

ARTICLE XIX

This Protocol shall come into force and shall have effect for the amendment of the Convention from the First day of April nineteen hundred and eighty four.

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

Done in duplicate at London this 17th day of June 1983, in the English and Hebrew languages, both texts being equally authoritative.

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

For the Government of Israel:

Malcolm Rifkind

Dvora Avineri

EXPLANATORY NOTE

(This note is not part of the Order.)

This order makes provision for modification of the Social Security (Northern Ireland) Act 1975, and Part II of the Child Benefit (Northern Ireland) Order 1975, so as to give effect in Northern Ireland to the provisions contained in the Protocol (set out in the Schedule) amending the Convention on social security signed at London on 29th April 1957 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Israel.

The amendments take account of changes in the legislations of the Contracting Parties and provide for the aggregation of insurance periods in determining entitlement to some long-term benefits, for the continuation of insurance for a maximum of 5 years from an insured person's transfer from one country to the other, for the waiving of residence conditions in relation to guardian's allowance and for the prevention of simultaneous entitlement to child benefit under the legislations of the Contracting Parties.