
SUBSIDIARY LEGISLATION 318.04

**SOCIAL SECURITY (RECIPROCAL AGREEMENT
WITH THE UNITED KINGDOM) ORDER**

29th October, 1956

*GOVERNMENT NOTICE 652 of 1956, as amended by Notice dated 10th
October, 1957 and Government Notice 206 of 1958.*

1. The title of this Order is the Social Security (Reciprocal Agreement with the United Kingdom) Order. Title.

2. The provisions contained in the Agreement set out in the Schedule to this Order shall have full force and effect; and the Social Security Act shall have effect subject to the modifications required therein for the purpose of giving effect to those provisions. Agreement.

*Amended by:
L.N. 206 of 1958.*

SCHEDULE

Agreement on National Insurance between the Government of the United Kingdom
and the Maltese Government

PART I

Definitions and Scope

Article 1

For the purpose of this Agreement, unless the context otherwise requires -

- (a) "benefit" means any pension, allowance, or other benefit payable under the legislation of one (or the other) territory, and includes any additional allowance payable therewith and any increase payable for a dependent;
- (b) "benefit for widowhood" means, in relation to the United Kingdom, widow's benefit payable under the legislation of the United Kingdom, and, in relation to Malta, a widow's pension payable under the legislation of Malta;
- (c) "child" means, in relation to any person, a child as defined by the legislation which is being applied who is treated under that legislation as being a child of that person or included in his family;
- (d) "competent authority" means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland or the Isle of Man Board of Social Services, as the case may require, and, in relation to Malta, the Minister in charge of the Department of Emigration, Labour and Social Welfare;
- (e) "dependent" means a person for whom an increase of benefit is payable under the legislation which is being applied;
- (f) "legislation" means, according to the context, the laws and regulations specified in Article 2 in force in any part of one (or the other) territory;
- (g) "old age pension" means, in relation to the United Kingdom a retirement pension or contributory old age pension payable under the legislation of the United Kingdom, and, in relation to Malta, an old age pension payable under the legislation of Malta;
- (h) "parent" includes a person who is treated as a parent under the legislation which is being applied;
- (i) "territory" means, according to the context, the United Kingdom or Malta;
- (j) "United Kingdom" means England, Scotland, Wales, Northern Ireland and the Isle of Man.

Article 2

- (1) The provisions of the present Agreement shall apply -
 - (a) in relation to the United Kingdom, to -
 - (i) the National Insurance Act, 1946, the National Insurance Act (Northern Ireland) 1946, the National Insurance (Isle of Man)

Act, 1948, and the legislation in force before the 5th July, 1948, which was replaced by those Acts;

- (ii) the National Insurance (Industrial Injuries) Act, 1946, the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948;

(b) in relation to Malta, to the National Insurance Act, 1956.

(2) Subject to the provisions of paragraph (3) of this Article, the Agreement shall apply also to any law or regulation which amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Agreement shall apply, only if the Governments of both territories agree, to laws, orders or regulations, which amend or supplement the legislation specified in paragraph (1) of this Article for the purpose of giving effect to any reciprocal agreement on social security which one (or the other) Government has made with the Government of a third territory.

PART II

Contributions

Article 3

(1) If a person is temporarily employed in one territory in the service of an employer who -

- (i) is ordinarily resident in the other territory; or
- (ii) has his principal place of business in that other territory; or
- (iii) has in that other territory a place of business in which the employed person is normally employed or to which the employed person is normally attached;

and the employed person is not ordinarily resident in the former territory, then, in relation to that employment -

- (a) those provisions of the legislation of the latter territory which concern the payment of contributions shall apply to him during the first twelve months of that employment as if he were employed in the latter territory;
- (b) the legislation of the former territory shall not apply to him during that period.

(2) The provisions of paragraph (1) of this Article shall not apply to any person who is employed in the Government service of either territory.

(3) The provisions of paragraph (1) shall apply to an employed person in relation to the employment specified in that paragraph even if an employer in the territory where he is temporarily employed is paying him wages in respect of the same employment.

(4) The provisions of sub-paragraphs (a) and (b) of paragraph (1) shall apply to an employed person in relation also to any other employment which he may undertake in the territory where he is temporarily employed during the period of twelve months specified in that paragraph.

(5) Where the employment specified in paragraph (1) lasts longer than twelve months, the provision of paragraphs (1), (3) and (4) shall continue to apply to the employed person if the competent authority of the territory where he is employed agrees thereto before the end of the period of twelve months specified in paragraph

(1).

Article 4

(1) If a person is employed in one territory -

- (i) in the Government service of the other territory, having been engaged for that employment outside the former territory, and is not ordinarily resident in the former territory; or
- (ii) in the Government service of that territory having been sent to that territory temporarily in the course of employment in the same Government service in the other territory, and is insured in relation to that employment in the latter territory under the legislation of that territory;

then in relation to the employment in the former territory -

- (a) those provisions of the legislation of the latter territory which concern the payment of contributions shall apply to him as if he were employed in that territory;
- (b) the legislation of the former territory shall not apply to him.

(2) The provisions of sub-paragraph (a) and (b) of paragraph (1) of this Article shall apply to an employed person in relation also to any other employment which he may undertake in the former territory.

(3) The provisions of paragraph (1) shall not apply to any apprentice in the service of the Admiralty in Malta who is sent to the United Kingdom the Equal Opportunities Scheme.

Article 5

None of the provisions of Articles 3, 4 and 6 of this Agreement shall affect the insurance of any person in relation to his service or training in any of the naval, military or air forces or reserve forces of the Crown.

Article 6

(1) For the purpose of this Article, "ship" means, in relation to one territory, a ship or vessel which is registered in that territory and is not owned in the other territory or any other British ship or vessel which is owned in the former territory; and a ship or vessel shall be deemed to be owned -

- (a) in the United Kingdom if it belongs to Her Majesty;
- (b) in one (or the other) territory, if it does not belong to Her Majesty and the owner or, where there is more than one owner, the managing owner or the manager resides or has his principal place of business in that territory.

(2) Subject to the provisions of paragraphs (3) and (5) of this Article, if a person ordinarily resident in one territory, is employed on board a ship of the other territory, the legislation of the latter territory shall apply to him as if he were ordinarily resident in the latter territory, and the legislation of the former territory shall not apply to his employment.

(3) If a person ordinarily resident in one territory is employed as master or a member of the crew of a ship of the other territory which -

- (a) is registered in the former territory;
- (b) is based in the former territory;

- (c) is engaged in the home trade of the former territory; or
- (d) is manned wholly or mainly by persons who are ordinarily resident in the former territory;

then the legislation of the former territory shall apply to him as if he were employed as master or a member of the crew of a ship of the former territory, and the legislation of the latter territory shall not apply to his employment.

(4) For the purpose of applying the provisions of paragraph (3) of this Article, a ship shall be treated as being engaged in the home trade of Malta if it is engaged in trading between Malta and any other Mediterranean port or ports or if it is a fishing vessel based in Malta.

(5) If a person is ordinarily employed in one territory in the service of an employer having a place of business in that territory, and is insured in relation to that employment under the legislation of that territory, then, in relation to any employment on board a ship of the other territory, being employment in the service of the same employer -

- (a) the legislation of the former territory shall apply to him as if he were employed on board a ship of that territory;
- (b) contributions under that legislation shall be paid by that employer; and
- (c) the legislation of the latter territory shall not apply to him.

Article 7

If a person who was formerly a member of any of the regular naval, military or air forces of the Crown is serving as a member of any of the naval, military or air forces raised in Malta, and his service is insurable under the legislation of Malta, then the legislation of the United Kingdom shall not apply to his service.

PART III

Benefit

Benefit of one territory payable in the other

Article 8

Where, under the legislation of one territory, a person would be entitled to receive an old age pension, benefit for widowhood, injury benefit, disablement benefit or death benefit if he were in that territory, he shall be entitled to receive that benefit while he is in the other territory.

Article 9

Where a person is employed in one territory and those provisions of the legislation of the other territory which concern the payment of contributions apply to him in accordance with the provisions of Article 3 or Article 4, he shall be treated under that legislation -

- (a) for the purpose of any claim to receive sickness benefit as if he were in the latter territory;
- (b) for the purpose of any claim to receive benefit for an industrial accident occurring, or an industrial disease contracted, in the course of his employment in the former territory, as if that employment were insurable and as if the accident had occurred or the disease had been contracted in the latter territory.

Article 9A.

Where a person is temporarily in one territory and is not entitled to receive sickness benefit or injury benefit under the legislation of that territory but would be entitled to receive such benefit under the legislation of the other territory he shall, subject to the approval of the competent authority of the latter territory, be entitled to receive that benefit for such period as that authority may determine.

Beneficiary of one territory with dependant in the other

Article 10

Where a person, who is entitled to receive any benefit under the legislation of one territory, would be entitled to receive an increase of that benefit if a dependent of his were in that territory, he shall be entitled to receive that increase while the dependent is in the other territory.

Benefit of one territory in respect of a child in the other

Article 11

(1) Where, under the legislation of one territory, a person would be entitled to receive benefit for widowhood or death benefit if a child had been in that territory at the time when one of his parents died, the person shall be entitled to receive that benefit if the child was in the other territory at that time.

(2) Where under the legislation of one territory, a person would be entitled to receive benefit for widowhood or death benefit if a child were in that territory, the person shall be entitled to receive that benefit while the child is in the other territory.

Sickness Benefit

Article 12

(1) Where a person is in one territory and has, since his last arrival in that territory become liable to pay contributions under the legislation of that territory, he shall be treated for the purpose of any claim to receive sickness benefit under that legislation, as if -

- (a) he had paid a contribution under that legislation for every week for which he has paid a contribution under the legislation of the other territory;
- (b) he had had a contribution credited to him under that legislation for every week for which he has had a contribution credited to him under the legislation of the other territory.

(2) For the purpose of this Article, the word "contribution" shall not include a contribution which a person has paid or had credited to him as a non-employed person under the legislation of the United Kingdom or a contribution which he has paid voluntarily under the legislation of Malta.

Unemployment Benefit

Article 13

(1) Where a person is in one territory and has, since his last arrival in that territory, become liable to pay contributions under the legislation of that territory, he shall be treated, for the purpose of any claim to receive unemployment benefit under that legislation, as if -

- (a) he had paid a contribution under that legislation for every week for which he has paid a contribution under the legislation of the other territory;
- (b) he had had a contribution credited to him under that legislation for

every week for which he has had a contribution credited to him under the legislation of the other territory;

(c) *(deleted)*;

(d) he had been resident in the former territory during any period during which he was resident in the latter territory.

(2) For the purpose of this Article, the word "contribution" shall not include a contribution which a person has paid or had credited to him as a self-employed or non-employed person under the legislation of the United Kingdom or a contribution which he has paid voluntarily under the legislation of Malta.

Benefit of one territory treated as Benefit of the other

Article 13A

Where a person claims sickness benefit under the legislation of one territory by virtue of the provisions of Article 12 of this Agreement or unemployment benefit under that legislation by virtue of the provisions of Article 13, he may, at the discretion of the competent authority of that territory, be treated as if he had received sickness benefit or unemployment benefit under that legislation for every day for which he has respectively received sickness benefit or unemployment benefit under the legislation of the other territory; but, for this purpose, any day for which he has received such benefit shall be ignored if it falls before the beginning of the last two complete benefit years as determined under the legislation of the latter territory, before the day for which he claims benefit.

Benefit for Widowhood.

Article 14

If a man has been insured under the legislation of both territories, then -

(a) for the purpose of determining whether his widow is entitled to receive benefit for widowhood under the legislation of one of the territories, any contribution, paid by him or credited to him under the legislation of the other territory, shall be treated as if it were a contribution respectively paid by him or credited to him under the legislation of the former territory; and

(b) if the widow is entitled to receive benefit for widowhood under the legislation of the former territory, the rate of that benefit shall be a part of the rate of the benefit which would have been payable to her under that legislation if every contribution paid by her husband or credited to him under the legislation of the latter territory had been a contribution respectively paid by him or credited to him under the legislation of the former territory, namely, that part which bears the same relation to the whole as the number of contributions, paid by him or credited to him under the legislation of the former territory bears to the total number of contributions paid by him or credited to him under the legislation of both territories.

Guardian's Allowance

Article 15

For the purpose of any claim to receive guardian's allowance under the legislation of one territory for a child who is resident in that territory, any contribution paid by a parent of the child under the legislation of the other territory shall be treated, unless guardian's allowance is payable for the child under that legislation, as if it had been paid by that parent under the legislation of the former

territory.

Old Age Pensions

Article 16

- (1) If a person has been insured under the legislation of both territories then -
 - (a) for the purpose of determining whether he is entitled to receive an old age pension under the legislation of one of the territories, any contribution, paid by him or credited to him under the legislation of the other territory, shall be treated as if it were a contribution respectively paid by him or credited to him under the legislation of the former territory; and
 - (b) if he is entitled to receive an old age pension under the legislation of the former territory, the rate of that pension shall be a part of the rate of the pension which would have been payable to him under that legislation if every contribution paid by him or credited to him under the legislation of the latter territory had been a contribution respectively paid by him or credited to him under the legislation of the former territory, namely, that part which bears the same relation to the whole as the number of contributions paid by him or credited to him under the legislation of the former territory bears to the total number of contributions paid by him or credited to him under the legislation of both territories.
- (2) If a woman claims an old age pension under the legislation of one (or the other) territory wholly or partly by virtue of her husband's contributions, the provisions of paragraph (1) of this Article shall apply to her, subject to the modification that any reference in that paragraph to a contribution paid by her or credited to her shall be construed as including a reference to a contribution respectively paid by her husband or credited to him.

Insurance Periods to be ignored

Article 17

- (1) For the purpose of determining, in accordance with the provisions of Articles 12, 13, 14, 15 and 16, whether a person is entitled to receive benefit under the legislation of Malta and for the purpose of determining, in accordance with the provisions of Articles 14 and 16 what benefit would have been payable under that legislation if every contribution paid by a person or credited to him under the legislation of the United Kingdom had been a contribution respectively paid by him or credited to him under the legislation of Malta, no account shall be taken of any contribution paid or credited under the legislation of the United Kingdom for any week before the week beginning on the 7th May, 1956.
- (2) For the purpose of applying the provisions of sub-paragraph (b) of Article 14 and sub-paragraph (b) of paragraph (1) of Article 16, no account shall be taken of any contribution which a person has paid or had credited to him under the legislation of the United Kingdom if, in the calculation of the yearly average of contributions paid by him or credited to him under that legislation, no account is taken of that contribution.

Industrial Injuries and Diseases

Article 18

Where a person has contracted an industrial disease and has been employed

in both territories in occupations involving the risk of that disease, he shall, subject to the provisions of Articles 9 and 19, be treated, for the purpose of any claim to receive benefit for that disease under the legislation of the territory in which he was last so employed, as if he had been so employed only in that territory.

Article 19

Where a person who is receiving or has received disablement benefit under the legislation of one territory claims disablement benefit under the legislation of the other territory, account shall be taken of the former benefit as if it were the benefit which would be paid or would have been paid under the legislation of the latter territory for disablement assessed for the same period at the same percentage.

Article 20

A person, who is in Malta and is entitled to receive injury benefit or disablement benefit under the legislation of the United Kingdom, shall also be entitled to receive under the legislation of Malta such medical treatment as he would have been entitled to receive if his benefit had been payable under the legislation of Malta.

Duplicate Rights

Article 21

If a person who is receiving benefit for widowhood, old age pensions, injury benefit, disablement pension, or death benefit under the legislation of one territory -

- (a) claims any benefit under the legislation of the other territory;
- (b) would be entitled but for this Article to receive the latter benefit;
- (c) would not be entitled under the legislation of the latter territory to receive in full at the same time both the latter benefit and the benefit which would have been awarded under that legislation in the circumstances in which the former benefit was awarded;

then he shall be entitled to receive under the legislation of the latter territory only the amount by which the former benefit is less than the latter:

Provided that the provisions of the Article shall not apply -

- (i) to a claim for benefit for widowhood or an old age pension under the legislation of the latter territory where the claimant is receiving benefit for widowhood or an old age pension under the legislation of the former territory;
- (ii) to a claim for disablement benefit under the legislation of the latter territory where the claimant is receiving disablement pension under the legislation of the former territory.

Claims made independently of the Agreement

Article 22

Subject to the provisions of Articles 19 and 21, any person claiming benefit under the legislation of either territory may choose to have his claim determined without regard to the provisions of this Part of the Agreement.

PART IV

Miscellaneous Provisions

Article 23

The competent authorities -

- (i) shall make such administrative arrangements as may be required for the application of this Agreement;
- (ii) shall communicate to each other information regarding any measure taken by them for the application of the Agreement;
- (iii) shall furnish assistance to one another with regard to any matter relating to the application of the Agreement.

Article 24

Where, under the provisions of this Agreement, any benefit is payable by the competent authority of one territory to a person who is in the other territory, the payment may, at the request of that authority, be made by the competent authority of the latter territory as agent for the competent authority of the former territory.

Article 25

No benefit paid under the legislation of one territory by virtue of this Agreement shall be reimbursed out of the National Insurance Funds of the other territory.

Article 26

Where a person who is in one territory has claimed benefit under the legislation of the other territory, the competent authority of the former territory, at the request of the competent authority of the latter territory, shall arrange, at its own expense, for him to be medically examined.

Article 27

Any exemption from, or reduction of, legal dues, charges and fees, provided for in the legislation of one territory in connection with the issue of any certificate or document required to be produced for the purpose of that legislation, shall be extended to certificates and documents required to be produced for the purpose of the legislation of the other territory.

Article 28

Any claim, notice or appeal which should, for the purposes of the legislation of one territory, have been presented within a prescribed period to an authority of that territory, but which is in fact presented within the same period to the corresponding authority of the other territory, shall be treated as if it had been presented to the authority of the former territory. In such cases, the authority of the latter territory shall, as soon as possible, arrange for the claim, notice or appeal to be sent to the competent authority of the former territory

Article 29

In the event of the termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained, and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

Article 30

The provisions of Articles 5 and 7 shall have effect from the 7th May, 1956. The other provisions of this Agreement shall have effect from the date of its entry into force.

Article 31

This Agreement shall enter into force on the 29th October, 1956, and shall remain in force for a period of one year from that date. Thereafter, it shall continue

in force from year to year unless notice of termination is given in writing by the government of either territory at least three months before the expiry of any such yearly period.
