

**1961 No. 1202**

**FAMILY ALLOWANCES**

**NATIONAL INSURANCE**

**NATIONAL INSURANCE (INDUSTRIAL  
INJURIES)**

**The Family Allowances, National Insurance and  
Industrial Injuries (Germany) Order 1961**

*Made* - - - -

*26th June 1961*

[Bilateral and multilateral reciprocal social security agreements between the United Kingdom and other Member States of the European Communities have generally been superseded, for nationals of those States, by the provisions of Council Regulations (EEC) Nos. 1408/71 and 574/72 to the extent provided by Article 6 of Regulation (EEC) No. 1408/71 subject to the exceptions prescribed by that Article and set out in Articles 7, 8 and 46(4) of that Regulation. The following Instrument, while generally superseded for the above reason, may still be of interest in its effect on persons or matters excepted from, or otherwise not covered by, that Regulation.]

[Under S.I. 1976/225, references in the following Order to provisions of the National Insurance Acts 1965 to 1974 and the National Insurance (Industrial Injuries) Acts 1965 to 1974 have effect, with certain modifications, as references to the corresponding or most nearly corresponding provisions of the Social Security Act 1975 (c. 14).]

[Under Regulation 9 of, and the Schedule to, S.I. 1976/963, Part I of the Child Benefit Act 1975 (c. 61) has effect as if the provisions relating to family allowances under the Family Allowances Acts 1965 to 1975 contained in the following Order applied to child benefit under that Part.]

[Provisions in the following Order relating to the calculation of retirement pension, widow's benefit or invalidity pension under U.K. legislation are modified, as to any additional pension payable, by S.I. 1979/290.]

[Under S.I. 1988/591, any provision in the following Order relating to the calculation of widow's allowance under U.K. legislation includes a reference to a widow's payment under U.K. legislation.]

[Under art. 2 of SI 1995/767 the SSC&B Act 1996 (c. 4), the SSA Act 1992 (c. 5) and the Jobseekers Act 1995 (c. 18) are modified so that the effect can be given to the proposal that any references in the Agreement set out in Sch. 1 to this Order, to sickness benefit, invalidity benefit or invalidity pension under UK legislation shall include short-term incapacity benefit or long-term incapacity benefit.]

[Under art. 2 of SI 1996/1928, the SSC&B Act 1996 (c. 4), the SSA Act 1992 (c. 5) and the Jobseekers Act 1995 (c. 18) are modified so that the effect can be given to the proposal that any reference, in the Agreement set out in Sch. 1 to this Order, to unemployment benefit shall include a reference to contribution-based jobseeker's allowance and that any definition in that Agreement of legislation to which the Agreement applies shall be read as including a reference to the Jobseekers Act 1995.]

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At the Court at Buckingham Palace, the 26th day of June, 1961

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Bonn on the twentieth day of April, nineteen hundred and sixty, a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Germany on social security (which Convention is set out in the First Schedule to this Order and is hereinafter referred to as "the Convention") and a Protocol supplementing the Convention (which Protocol is set out in the Second Schedule to this Order and is hereinafter referred to as "the Protocol") were signed on behalf of those Governments:

And Whereas by Article 50 of the Convention it is provided that the Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged:

And Whereas by Article 9 of the Protocol in the Second Schedule it is provided that the Protocol shall enter into force on the day when the Convention enters into force:

And Whereas the Convention has been ratified by the said Governments and the instruments of ratification were exchanged on the 5th day of June, 1961, and accordingly the Convention and the Protocol enter into force on the 1st day of August, 1961:

And Whereas by section 64 of the National Insurance Act 1946(a), as extended by subsection (1) of section 4 of the Family Allowances and National Insurance Act 1956(b), and section 85 of the National Insurance (Industrial Injuries) Act 1946(c) it is provided that Her Majesty may, by Order in Council, make provision for modifying or adapting the Family Allowances Act 1945(d) and the said Acts of 1946 in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in those sections:

Now, therefore, Her Majesty, in pursuance of the said section 64 of the National Insurance Act 1946, as so extended, and the said section 85 of the National Insurance (Industrial Injuries) Act 1946, 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 interpretation**

1.—(1) This Order may be cited as the Family Allowances, National Insurance and Industrial Injuries (Germany) Order 1961.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(e) shall apply for the purpose of the interpretation of this Order as they apply for the purpose of the interpretation of an Act of Parliament.

**Modification of Acts**

2. The provisions contained in the Convention and in the Protocol shall have full force and effect, so far as the same relate to England, Wales and Scotland and provide by way of agreement with the Government of the Federal Republic of Germany for reciprocity in any matters specified in either subsection (1) of section 64 of the National Insurance Act 1946, as extended by subsection (1) of section 4 of the Family Allowances and National Insurance Act 1956, or subsection (1) of section 85 of the National Insurance (Industrial Injuries) Act 1946; and the Family Allowances Acts 1945 to 1959, the National Insurance Acts 1946 to 1960 and the National Insurance (Industrial Injuries) Acts 1946

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(a) 1946 c. 67.

(b) 1956 c. 50.

(c) 1946 c. 62.

(d) 1945 c. 41.

(e) 1889 c. 63.

to 1960, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

*W.G. Agnew.*

## FIRST SCHEDULE

**CONVENTION  
ON SOCIAL SECURITY BETWEEN THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND AND THE FEDERAL REPUBLIC OF GERMANY**

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND *and* THE FEDERAL REPUBLIC OF GERMANY,

Being resolved to co-operate in the social field,

Affirming the principle that the nationals of one Contracting Party should receive under the social security legislation of the other equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and of making arrangements enabling persons who go from the territory of one Party to the territory of the other to keep the rights which they have acquired under the legislation of the former Party or to acquire corresponding rights under the legislation of the latter,

Desirous further of making arrangements for insurance periods completed under the legislation of the two Parties to be added together for the purpose of determining the right to receive benefit,

Have agreed as follows:—

## PART I

## DEFINITIONS AND SCOPE

**Article 1**

For the purpose of the present Convention—

- (1) “the United Kingdom” means the United Kingdom of Great Britain and Northern Ireland, and “the Federal Republic” means the Federal Republic of Germany;
- (2) “territory” means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and the Isle of Man, and, in relation to the Federal Republic, the area in which the Basic Law for the Federal Republic of Germany is in force;
- (3) “national” means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to the Federal Republic, a German within the meaning of the Basic Law for the Federal Republic;
- (4) “legislation” means the legislation specified in Article 2 in force in any part of the territory of one (or the other) Contracting Party;
- (5) “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 the Federal Republic, the Federal Minister of Labour and Social Affairs;
- (6) “social security authority” means the institute or authority appropriate for the application of the legislation, or any part thereof, specified in Article 2;
- (7) “competent social security 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, the Isle of Man Board of Social Services or the statutory authorities appointed to determine questions under the legislation of the United Kingdom, as the case may require, and, in relation to the Federal Republic, the social security authority specified by the competent authority, or the social security authority with which the person concerned is insured at the time of the claim to benefit, or with which he has title to benefit, or would have title if he were in the territory of the Federal Republic;

- (8) “German social security authority” means a social security authority located in the territory of the Federal Republic of Germany;
- (9) “employed person” means a person who comes within the definition of an employed person or a person who is treated as such in the legislation of one (or the other) Contracting Party: “employment” means employment as an employed person, and the words “employ” and “employer” refer to such employment;
- (10) “dependant” means, in relation to the United Kingdom, a person who would be treated as such for the purpose of any claim to receive benefit for a dependant under the legislation of the United Kingdom, and, in relation to the Federal Republic, a person who, for the purpose of the benefit in question, comes within the definition of a dependant in German legislation;
- (11) “contribution period” means a period in respect of which contributions, appropriate to the benefit in question, have been paid or treated as paid under the legislation of one (or the other) Party;
- (12) “equivalent period” means in relation to the United Kingdom, a period in respect of which contributions, appropriate to the benefit in question, have been credited under the legislation of the United Kingdom, and, in relation to the Federal Republic, a substitute period, an excluded period, a reckonable period, or a period of uninsurable employment (Beschäftigungszeit) as defined in German legislation, to the extent that it is treated as equivalent to a contribution period in accordance with that legislation;
- (13) “benefit” means any pension, allowance, grant or other cash benefit, provided under the legislation of one (or the other) Party, and includes any increase in the benefit and any additional allowance payable therewith;
- (14) “sickness benefit” means, in relation to the United Kingdom, sickness benefit, as defined in the legislation of the United Kingdom, other than invalidity pension, and, in relation to the Federal Republic, cash sickness benefit payable under German legislation;
- (15) “invalidity pension” means, in relation to the United Kingdom, sickness benefit, as defined in the legislation of the United Kingdom, which is payable to a person in respect of any period during which he is an invalid, as defined in German legislation, and for which he is entitled to receive an invalidity pension under that legislation or would be so entitled if he satisfied the other conditions laid down by that legislation, and, in relation to the Federal Republic, a pension (including a miner’s pension) payable under German legislation concerning pensions insurance in the case of inability to follow a former occupation or incapacity for employment;
- (16) “old age pension” means, in relation to the United Kingdom, a contributory old age pension or retirement pension, as defined in the legislation of the United Kingdom, and, in relation to the Federal Republic, a retirement benefit payable under German legislation concerning pensions insurance;

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Words in art. 1(17)  
substituted by art. 2 of  
S.I. 2005/2765 as from  
15.12.05.

- (17) “survivor’s benefit” means, in relation to the United Kingdom, a widow’s pension, widow’s basic pension, widow’s allowance or widowed mother’s allowance, excluding any part of that allowance payable for her first child and any increase payable for any other child, and, in relation to the Federal Republic, a widow’s pension, widower’s pension or former ►spouse or civil partner’s◄ pension, payable under German legislation concerning pensions insurance;
- (18) “orphan’s benefit” means, in relation to the United Kingdom, a guardian’s allowance, that part of a widowed mother’s allowance payable for her first child or any increase of a widowed mother’s allowance payable for any other child, or a child’s special allowance, and, in relation to the Federal Republic, an orphan’s pension payable under German legislation concerning pensions insurance;
- (19) “family allowance” means, in relation to the United Kingdom, a family allowance as defined in the legislation of the United Kingdom and, in relation to the Federal Republic, a children’s allowance as defined in German legislation, or a wife’s allowance or maintenance allowance payable in the Saar;
- (20) “vessel or aircraft” means, in relation to the United Kingdom, a sea-going ship or vessel, registered in the territory of the United Kingdom, or any other British sea-going ship or vessel of which the owner (or managing owner, if there is more than one owner) or manager resides or has his principal place of business in the territory of the United Kingdom, or an aircraft, registered in that territory, of which the owner (or managing owner, if there is more than one owner) resides or has his principal place of business in that territory; and, in relation to the Federal Republic, a sea-going ship which flies the Federal flag in accordance with German legislation or an aircraft which is included in the register of German aircraft.

**Article 2**

- (1) The provisions of the present Convention 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;
  - (iii) the Family Allowances Act, 1945, the Family Allowances Act (Northern Ireland), 1945, and the Family Allowances (Isle of Man) Act, 1946;
- (b) in relation to the Federal Republic, to the legislation concerning—
- (i) sickness insurance;
  - (ii) pensions insurance for manual workers, for salaried workers and for miners, and the special Saar Scheme for iron and steel workers;
  - (iii) accident insurance;
  - (iv) children’s allowances, and, in the Saar, wives’ allowances and maintenance allowances;
  - (v) old age assistance for farmers.

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

(3) The Convention shall apply to any legislation which extends the existing legislation to new classes of persons, unless, within three months of the date when information concerning the said legislation is given in accordance with the provisions of paragraph (b) of Article 38 of the Convention, the competent authority of one Contracting Party gives notice to the competent authority of the other Party that it shall not so apply.

(4) The 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) The Convention shall apply to legislation which amends or supplements the legislation specified in paragraph (1) of this Article for the purpose of giving effect to a reciprocal agreement on social security concluded with one or more other countries, or a Regulation, promulgated by the European Economic Community, which is binding on one of the Parties, only if the two Parties make an agreement to that effect.

## PART II

### GENERAL PROVISIONS

#### Article 3

(1) Subject to the provisions of Article 49 of the present Convention, a national of one Contracting Party shall enjoy the rights, and shall be subject to the obligations, of the legislation of the other Party under the same conditions as a national of the latter Party.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article and of Articles 13, 17 and 27 of the Convention, a person who is in, or resident in, the territory of one Party shall be treated as if he were, respectively in, or resident in, the territory of the other Party for the purpose of entitlement to claim, or to receive payment of, any benefit under the legislation of the latter Party.

(3) The provisions of paragraph (2) of this Article shall not apply to home confinement grant or unemployment benefit payable under the legislation of the United Kingdom, or to family allowances payable under the legislation of either Party.

(4) Where, under German legislation, payment of benefit to a person outside the territory of the Federal Republic is subject to the condition that he informs the competent social security authority of his address, or, at the request of that authority, reports from time to time at a specified office, this condition shall apply to the payment of benefit made by virtue of paragraph (2) of this Article.

(5) Any provisions of the present Convention which apply to nationals of either Party shall apply also to persons who are not nationals of either Party but whose claim to benefit is based on the insurance of a national of either Party.

(6) Subject to the provisions of Article 7 of the Convention, the Convention shall apply to those members of the forces, members of the civilian component and their dependants, who are mentioned in the first sentence of paragraph (1) of Article 13 of the Agreement to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany, signed at Bonn on the 3rd August, 1959(a), in so far as that Agreement relates to the Forces of the United Kingdom and their civilian component, in the same way as the Convention applies to other persons.

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(a) "Miscellaneous No. 12 (1959)", Cmnd. 852.

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**Article 4**

(1) Subject to the provisions of paragraph (2) of Article 36 of the present Convention, and in accordance with the provisions of paragraphs (2) and (3) of this Article, where a national of either Contracting Party who is ordinarily resident in the territory of the Federal Republic has paid contributions as an employed person under the legislation of the United Kingdom, he shall be entitled voluntarily to continue insurance under German legislation concerning sickness insurance and pensions insurance.

(2) For the purpose of applying the provisions of paragraph (1) of this Article in the case of voluntarily continued sickness insurance, the following shall apply—

- (a) any contribution period or equivalent period, completed by a person under the legislation of the United Kingdom as an employed person, shall be treated as a period of sickness insurance completed under German legislation;
- (b) continued insurance shall not be allowed unless an application is made to the competent social security authority within three months of the date of arrival in the territory of the Federal Republic, or of the expiry of the period covered by the last contribution paid under the legislation of the United Kingdom, or of the date on which the present Convention enters into force, whichever is the latest.

(3) For the purpose of applying the provisions of paragraph (1) of this Article in the case of voluntarily continued pensions insurance—

- (a) any contribution, paid by a person under the legislation of the United Kingdom as an employed person, shall be treated as a contribution paid under German legislation for a compulsorily insurable employment;
- (b) where a person was last employed in the territory of the United Kingdom and satisfies the conditions for continuing as a contributor in the pensions insurance scheme for manual workers, and also in the pensions insurance scheme for salaried workers, he can be insured only in that branch of continued insurance which would have been appropriate to the type of employment which he was last following in the United Kingdom, had that employment been followed in the Federal Republic;
- (c) where a person was last employed in the territory of the United Kingdom in employment which would not have been compulsorily insurable under German legislation, he shall be entitled to continue insurance only in the pensions insurance scheme for salaried workers;
- (d) where the kind of employment last followed by a person in the territory of the United Kingdom cannot be established, he shall be entitled to continue insurance only in the pensions insurance scheme for manual workers.

**Article 5**

(1) Subject to the provisions of paragraphs (2) and (3) of this Article and of Articles 6, 7 and 8 of the present Convention, where a national of either Contracting Party is in the territory of one Party, the legislation of that Party shall apply to him; and, if he is employed in that territory, that legislation shall apply to his employment, even if his employer is ordinarily resident in the territory of the other Party or has his principal place of business in that territory.

(2) Where a person, who is ordinarily resident in the territory of one Party and in the service of an employer who has a place of business or is ordinarily resident in that territory, is employed by that employer in the territory of the other party, the legislation of the former Party shall apply to that person for a period of

twelve months as if he were employed in its territory. If his employment in the territory of the latter Party should continue after the first twelve months, the legislation of the former Party shall continue to apply to him for any period that may be specified, provided that the competent authority of the latter Party or any agency which it may nominate has agreed thereto before the end of the first twelve months.

(3) 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 by railway or road, whether for a third party or on its own account:

- (a) subject to the provisions of sub-paragraphs (b) and (c) of this paragraph, if the person is employed by an undertaking which has its principal place of business in the territory of one Party, the legislation of that Party shall apply to him, even if he is employed in the territory of the other Party;
- (b) subject to the provisions of sub-paragraph (c) of this paragraph, if the undertaking has a branch or permanent representative in the territory of one Party and the person is employed by that branch of permanent representative, the legislation of that Party shall apply to him;
- (c) if the person is ordinarily resident in the territory of one Party and is employed wholly or mainly in that territory, the legislation of that Party shall apply to him, even if the undertaking which employs him has no principal place of business or branch or permanent representative in that territory.

#### **Article 6**

Where a person is ordinarily resident in the territory of one Contracting Party and is ordinarily engaged in an occupation on his own account in that territory, the legislation of that Party shall continue to apply to him during any period of not more than twelve months during which he is temporarily engaged in his occupation in the territory of the other Party.

#### **Article 7**

(1) Article 5 of the present Convention and paragraphs (2) and (3) of this Article shall not apply to—

- (a) members of the forces of either Contracting Party;
- (b) established members of the Foreign Service of the United Kingdom and career diplomats and career consular officers of the Federal Republic.

(2) Subject to the provisions of paragraphs (3) and (5) of this Article—

- (a) where a German national is employed in the territory of the United Kingdom in the service of the Federal Republic or of another public authority in the Federal Republic, German legislation shall apply to him as if he were employed in the territory of the Federal Republic in the place where the Government of the Federal Republic or the other public authority has its principal place of business;
- (b) where a person is employed in the territory of the Federal Republic in the Government service of the United Kingdom or of Northern Ireland or in the service of a public corporation of the United Kingdom, the legislation of the United Kingdom shall apply to him as if he were employed in its territory.

(3) Where a German national is employed in the circumstances described in sub-paragraph (a) of paragraph (2) of this Article in the territory of the United Kingdom, and, in accordance with his contract of service, is employed for service with a specified office in the territory of the United Kingdom, or a person

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is employed in the circumstances described in sub-paragraph (b) of paragraph (2) of this Article in the territory of the Federal Republic and his contract of service has been concluded by a person employed in the territory of the Federal Republic in the Government service of the United Kingdom or in the service of a public corporation of the United Kingdom—

- (a) the legislation of the Party in whose territory he is employed shall apply to him, unless and until he gives notice in accordance with the provisions of sub-paragraph (b) of this paragraph;
- (b) he shall be entitled to choose within three months of the beginning of such employment or of the entry into force of the Convention, whichever is the later, that the legislation of the other Party shall apply to him; if he so chooses—
  - (i) his choice shall take effect from the day on which he gives notice to his employer and the competent social security authority of the former Party;
  - (ii) from the day specified in paragraph (i) of this sub-paragraph, the legislation of the former Party shall cease to apply to him and the legislation of the latter Party shall apply to him as if he were employed in the territory of the latter Party;
  - (iii) if the latter Party is the Federal Republic, he shall be treated as if he were employed at the place where the Government of the Federal Republic or the other public authority has its principal place of business.

(4) If a person employed in any of the circumstances described in paragraphs (1), (2) and (3) of this Article employs in his personal service in the territory of one Party a national of the other Party, the provisions of paragraph (3) of this Article shall apply to that national.

(5) If a person is employed in the territory of one Party by the forces of the other Party in a civilian capacity or by an organisation serving those forces and is not ordinarily resident in that territory, then the legislation of the latter Party shall apply to him as if he were employed in its territory.

(6) The competent authorities of the Contracting Parties shall agree a list of the organisations to which the provisions of paragraph (5) of this Article shall apply.

(7) Paragraphs (2) and (3) of this Article shall not apply to persons employed in the personal service of an Honorary Consul.

**Article 8**

(1) Subject to the provisions of paragraph (2) of this Article, where a person who is ordinarily resident in the territory of one Contracting Party is employed on board a vessel or aircraft of the other Party, the legislation of the latter Party shall apply to him, as if any conditions relating to nationality or residence were satisfied.

(2) Where a person, who is ordinarily resident in the territory of one Party and employed temporarily on board any vessel or aircraft of the other Party, is paid remuneration in respect of that employment by a person who has a place of business in the territory of the former Party and who is not the owner of the vessel or the aircraft, the legislation of the former Party shall, in respect of that employment, apply to that person as if the vessel or aircraft were a vessel or aircraft of the former Party, and the person by whom the said remuneration is paid shall be treated as the employer for the purposes of such legislation.

**Article 9**

(1) Where a person is gainfully occupied in the territory of one Contracting

Party and the legislation of the other Party applies to him in accordance with any of the provisions of paragraphs (2) and (3) of Article 5, Article 6, and paragraphs (2), (3), (4) and (5) of Article 7 of the present Convention, he shall, for the purpose of any claim to receive benefit under that legislation, be treated—

- (a) in respect of sickness and maternity benefit as if he were in the territory of the latter Party; and
- (b) in respect of benefit for an industrial accident occurring, or an industrial disease contracted, during such gainful occupation, as if the accident had occurred, or the disease had been contracted, in the territory of the latter Party.

(2) If a person or ►his or her spouse or civil partner◄ or dependant is in the territory of one Party, and the legislation of the other Party applies to him in accordance with any of the provisions of paragraphs (2) and (3) of Article 5, Article 6, and paragraphs (2), (3), (4) and (5) of Article 7, ►his or her spouse or civil partner◄ or dependant shall, for the purpose of any claim to receive benefit for maternity under that legislation, be treated as if she were in the territory of the latter Party.

Words in art. 9(2) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(3) Where a person is employed on board any vessel or aircraft of one Party and the legislation of that Party applies to him in accordance with the provisions of paragraph (1) of Article 8 of the Convention, he shall, while he is in the territory of the other Party, be treated, for the purpose of any claim to receive sickness benefit for incapacity which began while he was so employed, as if he were in the territory of the former Party.

## **Article 10**

The competent authorities of the two Contracting Parties may agree that Articles 5, 6, 7 and 8 of the present Convention shall not apply in whole or in part to particular employed or self-employed persons or to groups of such persons, if this is in the interest of those persons.

## **PART III**

### **SPECIAL PROVISIONS**

#### **Section 1**

#### **Sickness Benefit, Maternity Benefit and Death Grants**

## **Article 11**

(1) A person who, since his last arrival in the territory of one Contracting Party, has completed a contribution period under the legislation of that Party, shall be entitled, together with his dependants, to receive sickness benefit and maternity benefit under that legislation if he satisfies the conditions for receiving those benefits under that legislation; and, for this purpose, subject to the provisions of Article 33 of the present Convention, insurance periods, completed under the legislation of the other Party, shall be treated as if they had been completed under the legislation of the former Party.

(2) The provisions of paragraph (1) of this Article shall apply also to death grants, subject to such modifications as the differing nature of that benefit may require.

(3) For the purpose of applying the provisions of paragraphs (1) and (2) of this Article, an insurance period means, in relation to the United Kingdom, a contribution period or equivalent period completed under the legislation of the United Kingdom and, in relation to the Federal Republic, an insurance period as defined in German legislation.

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(4) If a person has begun a contribution period under the legislation of the United Kingdom since his last arrival in the territory of the United Kingdom and applies, on grounds of incapacity for work or confinement, for exception from liability to pay contributions for any period and for contributions to be credited to him for that period, then, for the purpose of that application—

- (a) any period during which he was employed and insured under German legislation shall be treated as a period during which he was employed in the territory of the United Kingdom and for which he paid contributions as an employed person under the legislation of the United Kingdom;
- (b) any period during which he was self-employed and insured under German legislation shall be treated as a period during which he was self-employed in the territory of the United Kingdom and for which he paid contributions as a self-employed person under the legislation of the United Kingdom;
- (c) any other insurance period which he completed under German legislation shall be treated as a period for which he was credited with contributions as an employed person under the legislation of the United Kingdom.

(5) Where a person has ceased to be insured under German legislation and is in the territory of the United Kingdom but has not yet begun a contribution period under the legislation of the United Kingdom, those provisions of German legislation which concern the payment of benefit to persons who have ceased to be insured shall apply to him as if he were in the territory of the Federal Republic.

**Article 12**

For the purpose of admission to compulsory sickness insurance under German legislation relating to pensioners, any contribution period or equivalent period completed under the legislation of the United Kingdom shall, subject to the provisions of Article 33 of the present Convention, be treated as if they had been completed under German legislation.

**Article 13**

Where a person would be entitled to receive sickness benefit under the legislation of one Contracting Party, if he were in the territory of that Party, he may, at the discretion of the competent authority of that Party, be entitled to receive that benefit while he is in the territory of the other Party. This provision shall not affect any provision of the legislation of one (or the other) Party which is more favourable to the person concerned.

**Article 14**

(1) Where a ►person◄ who is insured under the legislation of one Contracting Party, or is the ►spouse or civil partner◄ or dependant of a person so insured, is in, or is confined in, the territory of the other Party, ►he or she◄ shall, for the purpose of any right to receive maternity benefit under the legislation of the former Party, be treated as if ►he or she◄ were in, or had been confined in, territory of the former Party.

(2) Where a ►person◄ would be entitled under the provisions of the present Convention, or otherwise, to receive maternity benefits of the same kind under the legislation of both Parties, ►he or she◄ shall not be entitled to receive both of these benefits but may choose which ►he or she◄ will receive.

(3) For the purpose of paragraphs (1) and (2) of this Article “maternity benefit” means, in relation to the United Kingdom, maternity benefit other than home confinement grant.

Words in art. 14(1) & (2) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

### **Article 15**

(1) Where a person dies in the territory of one Contracting Party, his death shall be treated, for the purpose of any claim to receive a death grant under the legislation of the other Party, as if it had occurred in the territory of the latter Party.

(2) Death grants shall not be payable under the legislation of both Parties in respect of the same death, unless the rights to such grants under the legislation of both Parties exist independently of the provisions of the present Convention.

(3) The following provisions shall determine the right to receive a death grant in cases where paragraph (2) of this Article prevents a double payment—

- (a) if the death occurs in the territory of one Party, the right under the legislation of that Party shall be preserved, and the right under the legislation of the other Party shall be extinguished;
- (b) if the death does not occur in the territory of either Party, the right under the legislation of that one of the two Parties in whose territory the deceased last was before his death shall be preserved, and the right under the legislation of the other Party shall be extinguished.

## **Section 2**

### **Old Age Pensions, Invalidity Pensions and Benefits for Survivors and Orphans**

#### **GENERAL PROVISIONS**

### **Article 16**

For the purpose of applying the provisions of this Section, contribution periods and equivalent periods under German legislation shall be all contribution periods and equivalent periods which are taken into account under that legislation.

### **Article 17**

(1) Paragraph (2) of Article 3 of the present Convention shall not modify those provisions of German legislation concerning foreign pensions and pensions payable abroad (*Fremdrenten und Auslandsrenten*) which provide that only persons who are ordinarily resident in the territory of the Federal Republic shall be entitled to take into account, for the purpose of a claim to benefit, certain specified contribution periods and equivalent periods.

(2) Where a German social security authority, after taking into account the periods mentioned in paragraph (1) of this Article, pays a pension to a person for any period during which he is or was resident in the territory of the Federal Republic, that social security authority shall continue to pay that pension while the beneficiary is ordinarily resident in the territory of the United Kingdom, unless he is in receipt of benefit in respect of those periods from any social security authority located outside the territories of the two Contracting Parties.

(3) Where a person who has continued to receive payment of a pension in accordance with the provisions of paragraph (2) of this Article dies and his surviving dependants are ordinarily resident in the territory of the United Kingdom, such dependants shall be entitled to receive payment of any pensions which would have been payable to them if they had been ordinarily resident in the territory of the Federal Republic.

(4) Contributions which were paid before the 1st August, 1953, under the pensions insurance scheme for salaried workers, either within the territory of the

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Federal Republic (before or after the Federal Republic was established) or from abroad, shall be treated as if they had been paid to the Federal Insurance Institute for salaried workers.

**Article 18**

Contributions to the supplementary pensions insurance scheme under German legislation may be paid in addition to any compulsory contributions paid under the legislation of the United Kingdom.

**OLD AGE PENSIONS****Article 19**

Where a person has been insured under the legislation of both Contracting Parties, any pension due to him under such legislation shall be awarded in accordance with the provisions of Article 20 or Article 22 of the present Convention.

**Article 20**

(1) Where a person who has been insured under the legislation of both Contracting Parties submits a claim for an old age pension to the social security authority of one Party, that authority shall inform the social security authority of the other Party. In these cases, the social security authority of each Party shall decide whether such a person is entitled to receive a pension under its own national legislation, and, for this purpose, subject to the provisions of Article 21 and 33 of the present Convention, shall add any contribution period or equivalent period completed by him under the legislation of the other Party to the contribution periods and equivalent periods which are taken into account under its own national legislation.

(2) For the purpose of applying the provisions of paragraph (1) of this Article, account shall be taken of any contribution period or equivalent period completed by a person under the legislation of one (or the other) Party, only in so far as account would have been taken of that period for the purpose of the establishment, maintenance or recovery of the right to receive an old age pension under that legislation.

(3) If the social security authority of one Party decides in accordance with the provisions of paragraph (1) of this Article that a person is entitled to receive an old age pension under its own national legislation, it shall calculate, having regard to the provisions of Article 33 of the Convention—

- (a) first the amount of the pension which would have been due to the person under its own national legislation if all the contribution periods and equivalent periods completed by him under the legislation of the other Party were added to the contribution periods and equivalent periods completed by him under its own national legislation; and then
- (b) the amount of that part of such pension which bears the same relation to the whole as the total of all the contribution periods and equivalent periods completed by him under its own legislation bears to the total of all the contribution periods and equivalent periods completed by him under the legislation of both Parties.

(4) For the purpose of applying the provisions of paragraph (3) of this Article—

- (a) account shall be taken only of those contribution periods and equivalent periods of which account is taken for the purpose of calculating the amount of pension due under the legislation under which they were completed;
- (b) no account shall be taken of any contributions paid under those provisions of German legislation which concern supplementary insur-

ance or of any graduated contributions paid under those provisions of the legislation of the United Kingdom which concern graduated retirement benefit.

(5) The amount specified in sub-paragraph (b) of paragraph (3) of this Article shall be increased by any amount payable in respect of—

- (a) contributions paid under those provisions of German legislation which concern supplementary insurance;
- (b) graduated contributions paid under those provisions of the legislation of the United Kingdom which concern graduated retirement benefit;

and the amount so increased shall be the pension actually due to the person concerned from the social security authority.

(6) For the purpose of applying the provisions of paragraphs (1) and (3) of this Article—

- (a) if the contribution periods and equivalent periods completed by a person under the legislation of one Party amount to less than six months, and are not deemed to have satisfied the conditions concerning qualifying periods under that legislation, no pension shall be payable by the social security authority of that party, and the social security authority of the other Party shall leave those periods out of account in calculating the pension due to him in accordance with the provisions of sub-paragraph (b) of paragraph (3);
- (b) a contribution period or equivalent period completed by a person shall be deemed, in relation to the United Kingdom, to include a contribution period or equivalent period completed by the ►his or her spouse or civil partner◄ of that person in those cases where the person concerned is—
  - (i) a ►person◄ claiming an old age pension by virtue of ►his or her spouse or civil partner's◄ insurance, or
  - (ii) a ►person◄ whose ►marriage or civil partnership◄ has been terminated by the death of ►his or her spouse or civil partner◄ or otherwise, and who has chosen to have ►his or her spouse or civil partner's◄ contributions taken into account in determining ►his or her◄ right to receive an old age pension by virtue of ►his or her◄ own insurance.

Words in art. 20(6)(b), (b)(i) & (ii) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(7) The German social security authority, in calculating the amount of the pension which would have been due in the circumstances specified in sub-paragraph (a) of paragraph (3) of this Article, shall apply, where necessary, any provisions of German legislation concerning the curtailment, suspension or reduction of old age pensions.

(8) For the purpose of calculating the amount of the pension actually due to a person, the German social security authority shall apply the provisions of paragraphs (3) to (7) of this Article only where—

- (a) a reckonable period is to be taken into account or children's allowances or additional allowances are to be awarded; or
- (b) the legislation concerning pensions insurance in force before 1st January, 1957, is applicable; or
- (c) an aggregate benefit is payable which includes a pension element payable under miners' pensions insurance; or
- (d) sub-paragraph (a) of paragraph (6) of this Article applies.

In all other cases the German social security authority shall calculate the pension solely by reference to its own national legislation which may be applicable.

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**Article 21**

The German social security authority shall apply the provisions of paragraphs (1) to (7) of Article 20 of the present Convention in accordance with the following rules:

(1) for the purpose of deciding whether a person has completed the qualifying period of insurance—

- (a) any contribution period completed under the legislation of the United Kingdom since 5th July, 1948;
- (b) any contribution period completed under the legislation of the United Kingdom before 5th July, 1948, in so far as such period can be ascertained fully or adequately,

shall be treated as a contribution period completed under German legislation.

(2) Where, under German legislation, a pension depends on contribution periods or equivalent periods completed under the pensions insurance scheme for miners, any contribution period or equivalent period completed under the legislation of the United Kingdom shall not be taken into account unless it is a period during which the person concerned was employed in the mining industry in the United Kingdom.

(3) Where, under German legislation, a pension or a part of a pension depends on contribution periods or equivalent periods during which the person concerned was employed as a hewer underground or was engaged in similar work, any contribution period or equivalent period completed under the legislation of the United Kingdom shall not be taken into account unless it is a period during which the person concerned was employed as a hewer underground or was engaged in similar work in the mining industry in the United Kingdom.

(4) For the purpose of calculating the pension assessment base of the insured person concerned, account shall be taken only of the wages, earnings and other such income received by him while completing contribution periods under German legislation.

(5) Where, for the purpose of calculating what ratio the insured person's gross remuneration bears to the average gross remuneration of all insured persons, no account is taken of compulsory contributions paid under German legislation in respect of the first five calendar years of insurance, the appropriate first five calendar years of insurance shall be those completed under the legislation of the United Kingdom specified in sub-paragraph (a)(i) of paragraph (1) of Article 2 of the Convention, or under German legislation specified in sub-paragraph (b)(ii) of paragraph (1) of that Article under whichever legislation these calendar years have first been completed.

**Article 22**

(1) Where the social security authority of one (or the other) Contracting Party decides that a person would be entitled to receive an old age pension under its own national legislation apart from the provisions of Article 20 of the present Convention, the person may choose not to take advantage of those provisions. In that case, any old age pension which he may be entitled to receive under the legislation of each Party shall be paid to him separately by its social security authority, and for this purpose that authority shall take into account only the contribution periods and equivalent periods completed by him under the national legislation applied by that authority.

(2) Such a person shall be entitled to make a fresh choice between taking advantage of the provisions of Article 20 of the Convention and those of paragraph (1) of this Article, if it is in his interest to do so.

## INVALIDITY PENSIONS

### Article 23

(1) The provisions of Articles 20 and 21 of the present Convention, other than those contained in sub-paragraph (b) of paragraph (6) of Article 20, shall apply, subject to such modification as the differing nature of the benefits may require, to invalidity pensions.

(2) For the purpose of deciding whether, under German legislation concerning pensions insurance for manual workers or salaried workers, a reckonable period shall be taken into account—

- (a) the date of entry into insurance shall be the date of first entry into insurance in accordance with the legislation of one (or the other) Contracting Party;
- (b) contribution periods, completed by a person under the legislation of the United Kingdom as an employed person, shall be treated as contribution periods completed in a compulsorily insurable employment under German legislation for the purposes of deciding whether at least 36 in the last 60 calendar months before the date of the occurrence of the insurance contingency have been covered by contributions, or of deciding the extent to which the period from the date of entry to the date of the occurrence of the insurance contingency is covered by contributions.

(3) The provisions of paragraph (2) of this Article shall also apply, subject to such modifications as may be appropriate, for the purpose of deciding whether, under German legislation, a reckonable period shall be taken into account in the pensions insurance scheme for miners; but it shall not so be taken into account unless the last contribution before the date of the occurrence of the insurance contingency was paid in that scheme or in respect of employment in the mining industry under the legislation of the United Kingdom.

(4) Any reckonable period which is taken into account under German legislation shall be ignored for the purpose of sub-paragraph (b) of paragraph (3) of Article 20 of the Convention.

### Article 24

Where a person is entitled, in accordance with the provisions of Article 23 of the present Convention, to receive invalidity pensions under the legislation of both Contracting Parties, and the aggregate of these two pensions is less than the invalidity pension which would be payable to him under the legislation of one or both of the Parties if the provisions of that Article were not applied in his case, the social security authority of the Party under whose legislation the greater pension would be due, if the provisions of that Article were not applied in his case, shall increase in the pension which it is liable to pay in accordance with the provisions of that Article by the difference between that greater pension and the aggregate of the pensions payable in accordance with the provisions of that Article.

### Article 25

(1) Where a person is entitled to receive an invalidity pension under the legislation of one Contracting Party, otherwise than by virtue of the provisions of Article 23 of the present Convention, and is not entitled to receive an invalidity pension under the legislation of the other Party, whether by virtue of these provisions or otherwise, the social security authority of the former Party shall pay him the pension which he is entitled to receive under its own national legislation, without regard to the provisions of that Article.

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(2) A pension, payable by virtue of the provisions of paragraph (1) of this Article, shall be replaced by pensions determined in accordance with the provisions of Articles 23 and 24 of the Convention, as soon as the person concerned satisfies the conditions for receiving an invalidity pension laid down by the legislation of the other Party.

**SURVIVOR'S BENEFIT AND ORPHAN'S BENEFIT****Article 26**

(1) Subject to such modifications as the differing nature of the benefits may require, the provisions of Articles 19 to 22 and paragraphs (2), (3) and (4) of Article 23 of the present Convention shall apply to survivor's benefit, and the provisions of Articles 23 and 24 of the Convention shall apply to orphan's benefit.

(2) Where a child who is not ordinarily resident in the territory of the United Kingdom is not entitled, in accordance with the provisions of paragraph (1) of this Article, to receive an orphan's pension under German legislation, a guardian's allowance for that child shall not be paid under the legislation of the United Kingdom unless the insured person by virtue of whose insurance that allowance is claimed had paid at least 52 contributions under that legislation; and the guardian's allowance shall be reduced by one half if that insured person had so paid at least 104 but fewer than 156 contributions, and shall be reduced by three-quarters if that insured person had so paid at least 52 but fewer than 104 contributions.

(3) Subject to the provisions of paragraph (2) of this Article, the provisions of Article 25 of the Convention shall apply to orphan's benefit.

**Section 3****Benefit of Industrial Injuries and Diseases****Article 27**

The German social security authorities for accident insurance shall pay benefit for industrial injuries and diseases to persons who are ordinarily resident in the territory of the United Kingdom only in the case of an industrial accident occurring or an industrial disease contracted—

- (a) in the territory of the Federal Republic, whether before or after the establishment of the Federal Republic, or on board a vessel which was flying the German flag and whose home port was in that territory, provided that this shall not apply in respect of an industrial accident occurring or an industrial disease contracted within the territory of the Federal Republic in connection with an employment which is or was outside that territory;
- (b) outside the territory of the Federal Republic in connection with an employment which is or was within that territory;
- (c) in Alsace-Lorraine before 1st January, 1919, and in respect of which liability was not taken over by the French insurance authorities in accordance with the decision of the Council of the League of Nations of 21st June, 1921.

**Article 28**

Where a person would be entitled to receive any benefit payable under the Colliery Workers' Supplementary Scheme of the United Kingdom, if he were in the territory of the United Kingdom, he shall be entitled to receive that benefit while he is in the territory of the Federal Republic.

**Article 29**

Where a person has sustained an industrial injury or contracted an industrial disease, to which the legislation of one Contracting Party applies, and later sustains an industrial injury or contracts an industrial disease to which the legislation of the other Party applies, the social security authority of the latter Party shall, for the purpose of determining the degree of his disablement, take account of the former injury or disease as if the legislation of the latter Party applied to it, and shall take account of any benefit payable in respect of that injury or disease as if it were payable under that legislation.

**Article 30**

Where a person has been successively employed in the territory of both Contracting Parties in an occupation to which, under the legislation of both Parties, an industrial disease may be attributed, and claims benefit under the legislation of one Party for this industrial disease for which he is not receiving benefit under the legislation of the other Party, he shall not be disqualified for receiving such benefit under the legislation of the former Party on the sole ground that he has been employed in the territory of the latter Party in an occupation to which that disease may be attributed.

**Section 4**

**Family Allowances**

**Article 31**

(1) Where a person is employed in the territory of one Contracting Party and the legislation of the other Party applies to him in accordance with any of the provisions of paragraphs (2) and (3) of Article 5, Article 6 and paragraphs (2), (3), (4) and (5) of Article 7 of the present Convention, he shall be treated for the purpose of any claim to receive family allowances under that legislation—

- (a) as if he were in the territory of the latter Party and employed in that territory; and
- (b) if his children are in the territory of the former Party, as if they were in the territory of the latter Party.

(2) Where a person is employed in the territory of one Party, or is resident there, and the provisions of paragraph (1) of this Article do not apply to him, he shall be treated, for the purpose of any claim to receive family allowances under the legislation of that Party, as if—

- (a) his place of birth were in the territory of that Party, if it is in the territory of the other Party; and
- (b) he had been present, resident, or employed in the territory of that Party during any period during which he was, respectively, present, resident, or employed in the territory of the other Party.

**Section 5**

**Other Provisions**

**Article 32**

(1) Where under the legislation of one Contracting Party any benefit, other than family allowances, or any increase of benefit would be payable for a dependant if he were in the territory of that Party, it shall be paid while he is in the territory of the other Party.

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(2) For the purpose of applying the provisions of paragraph (1) of this Article, any provision of German legislation which makes it a condition for the payment of benefit that a dependent shall be resident with a beneficiary in the same household, shall be deemed to be satisfied if the dependant is mainly maintained by the beneficiary.

(3) Where a person would be entitled, under the legislation of the United Kingdom, to receive widow's benefit or benefit in respect of a death due to an industrial injury or disease if a child were in the territory of the United Kingdom, or had been in that territory at the time when one of his parents died or at any other specified time, he shall be entitled to receive that benefit if the child is in the territory of the Federal Republic or was in that territory at that time.

**Article 33**

For the purpose of applying the provisions of Articles 11, 20, 23, 26 and 46 of the present Convention for the establishment, maintenance or recovery of the right to receive benefit and for the calculation of benefit, contribution periods and equivalent periods completed under the legislation of the two Contracting Parties shall be dealt with as follows—

- (a) where a period of compulsory insurance completed under the legislation of one Party coincides with a period of voluntary insurance completed under the legislation of the other Party, only the period of compulsory insurance shall be 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 of the Party in whose territory the person concerned was last employed before that period or, if he was not previously employed in the territory of either Party only of the equivalent period completed under the legislation of the Party in whose territory he is first employed after that period;
- (d) where, in accordance with the provisions of paragraph (a) of this Article, voluntary contributions paid under German legislation on pensions insurance are not taken into account, they shall be treated as contributions paid for supplementary insurance under that legislation.

**Article 34**

Where a person is entitled to receive benefit under German legislation his benefit shall not be commuted to a lump sum on the ground that he has left the territory of the Federal Republic and has gone to the territory of the United Kingdom, or on the ground that he is in the territory of the United Kingdom.

**Article 35**

Where a person is entitled to receive an old age pension or invalidity pension under the legislation of one Contracting Party, the social security authority of that Party shall take account of any benefit for an industrial accident or disease, which is paid to him under the legislation of the other Party, as if it were the corresponding benefit payable under the legislation of the former Party.

**Article 36**

(1) Where the legislation of one Contracting Party provides that, if a person is following an occupation in the territory of that Party, he shall not be entitled to receive benefit under that legislation, or that his benefit shall be reduced, suspended, disallowed, or curtailed, any occupation which he follows in the territory of the other Party shall be treated as if it were being followed in the territory of the former Party.

(2) A person shall not be entitled to contribute voluntarily to continued insurance for pensions under German legislation for any period during which he is compulsorily insured under the legislation of the United Kingdom. If, however, he has taken advantage of the right to continued insurance before the present Convention comes into force, he shall be entitled to maintain that insurance.

**Article 37**

(1) Where any benefit is payable under the legislation of one Contracting Party to a person in the territory of the other Party, the payment may be made by the social security authority of the latter Party, at the request of the social security authority of the former Party.

(2) Where a benefit is paid by a German social security authority at the request of a social security authority of the United Kingdom in accordance with the provisions of paragraph (1) of this Article, the payment may be made, except in the case of a lump sum payment, in arrear at monthly intervals.

**PART IV**  
**TRANSITIONAL, ADMINISTRATIVE AND FINAL**  
**PROVISIONS**

**Article 38**

The competent authorities shall inform each other as soon as possible of—

- (a) any measures taken by them for the application of the present Convention, and
- (b) any changes made in their national legislation which affect the application of the Convention.

**Article 39**

(1) The competent authorities and the social security authorities of the Contracting Parties shall assist one another with regard to any matter relating to the application of the present Convention as if the matter were one affecting the application of their own national legislation.

(2) The competent authorities shall agree upon the measures necessary to implement the Convention. They may also establish liaison offices, which shall deal directly with one another. If liaison offices are established communications from an insurance authority of one Contracting Party may be transmitted to a person who is in the territory of the other Party through the liaison office of the latter Party.

(3) In the Federal Republic the determination of any claim made by virtue of any of the provisions of Section 2 of Part III of the Convention, and the payment of benefit so determined are the responsibility—

- (a) under pensions insurance for manual workers, of the Land Insurance Institute of the Free Hansa City of Hamburg provided that it does not

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come under the competence of the Railway Employees Insurance Institute or the Maritime Fund;

- (b) under pensions insurance for miners, of the Ruhr Miners Scheme at Bochum.

**Article 40**

Where a social security authority of one Contracting Party has made an advance payment to a person for any period, or has paid him any benefit for that period under the legislation of that Party without regard to the provisions of the present Convention, and the social security authority of the other Party afterwards decides that the person is entitled to benefit for that period under the legislation of the latter Party, the authority of the latter Party, at the request of the authority of the former Party, may deduct from the arrears of benefit due for that period any overpayment which results from the advance payment or benefit paid by the authority of the former Party and may transmit this sum to the authority of the former Party.

**Article 41**

Where a beneficiary has received assistance from an assistance authority of one Contracting Party for a period for which he has qualified for benefit under the social security legislation of the other Party, the competent social security authority of the latter Party shall, under its own national legislation, withhold the amount paid in the form of assistance at the request of the assistance authority concerned. This provision, subject to such modifications as may be appropriate, shall apply also to any of the beneficiary's dependants who have received assistance.

**Article 42**

(1) Where the legislation of one Contracting Party provides that any document which is submitted to a social security authority or other authority of that Party shall be exempt, wholly or partly, from legal dues or charges, this exemption shall apply to documents submitted under the present Convention to the corresponding authority of the other Party.

(2) Documents issued in the territory of one Party and submitted under the Convention to a social security authority of the other Party need not be authenticated if they bear the official stamp or seal of the issuing authority.

**Article 43**

(1) Any claim, notice or appeal which should, for the purpose of the legislation of one Contracting Party, have been submitted to a social security authority or other authority of that Party, shall be treated as if it had been submitted to the appropriate authority if it has been submitted to an authority of the other Party concerned with social security. The day on which the claim, notice or appeal is submitted to that authority shall be considered as the day of submission to the appropriate authority.

(2) In any such case, the authority to which the claim, notice or appeal has been submitted shall transmit it without delay to the appropriate authority of the other Party.

**Article 44**

For the purpose of applying the present Convention, the social security authorities may communicate directly with one another or with any person

concerned, or with any representative of his, and, for this purpose, any letter may be written in the English or German language.

**Article 45**

Any document, presented for the purpose of the present Convention to the social security authority of one Contracting Party or to any other authority of that Party concerned with social security, may be written in the official language of the other Party.

**Article 46**

(1) No provision of the present Convention shall confer any right to receive any payment of benefit for any period before the date of entry into force of the Convention.

(2) Benefit, other than lump sum payments, shall, if claimed, be payable, in accordance with the provisions of the Convention, in respect of events which occurred before the date of its entry into force. If the benefit is claimed within twelve months of that date, it shall be paid at the earliest as from that date. A pension already determined before that date shall, notwithstanding any provisions to the contrary in the relevant legislation about late or time-barred claims and notwithstanding the validity of an earlier decision, be determined afresh as from that date in accordance with the provisions of the Convention, if the beneficiary applies within twelve months of that date.

(3) For the purpose of applying the provisions of the Convention, account shall be taken of contribution periods and equivalent periods begun or completed before the date of its entry into force.

**Article 47**

(1) Any dispute concerning the interpretation or application of the present Convention shall, as far as possible, be resolved by the competent authorities.

(2) If any such dispute cannot be resolved in this manner, it shall, at the request of either Party, be submitted to an arbitration tribunal.

(3) The arbitration tribunal shall consist of two members, one appointed when occasion arises, by each party, and a national of a third state chosen by the members as chairman. If one Party fails to appoint its member within sixty days of the request for arbitration by the other Party, or if the members fail to agree upon a chairman within sixty days after they have been appointed, either of the Parties may ask the President of the International Court of Justice to make the requisite appointment. In the event of the President being a national of either Party, or being prevented from making the appointment for any other reason, the Vice-President of the Court may be asked to make the requisite appointment.

(4) The decisions of the arbitration tribunal shall be by majority vote. Its decisions shall be final and binding. Each Party shall bear the expenses of its members. The remaining costs shall be borne equally by the two Parties. Apart from these provisions the arbitration tribunal shall itself determine its rules of procedure.

**Article 48**

In the event of the termination of the present Convention, 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.

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**Article 49**

The provisions of paragraph (1) of Article 3 of the present Convention shall not be deemed to modify those provisions of the legislation of either Contracting Party which restrict to its own nationals the right to be elected to offices in its social security authorities or in associations of such authorities.

**Article 50**

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged in London as soon as possible.

(2) The Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

**Article 51**

The present Convention shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such yearly period.

In witness whereof the undersigned Plenipotentiaries have signed the present Convention.

Done in duplicate at Bonn this twentieth day of April, 1960, in the English and German languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

*Christopher Steel.*  
*John Boyd-Carpenter.*

For the Federal Republic of Germany:

*V. Brentano.*  
*Blank.*

## SECOND SCHEDULE

### **FINAL PROTOCOL TO THE CONVENTION ON SOCIAL SECURITY BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY**

At the time of signing the Convention on Social Security concluded this day between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany, the undersigned have agreed as follows:-

#### PART I

#### APPLICATION OF THE CONVENTION TO LAND BERLIN

##### Article 1

(1) The said Convention shall apply to Land Berlin, unless the Government of the Federal Republic notifies the Government of the United Kingdom to the contrary within three months after the entry into force of the Convention.

(2) For the purpose of applying the Convention any reference in it to the territory of the Federal Republic shall be deemed to include a reference to the territory of Land Berlin, and any reference in it to the legislation of the Federal Republic shall be deemed to include a reference to the legislation of Land Berlin.

#### PART II

#### PAYMENT OF ARREARS OF PENSION FOR PERIODS BEFORE THE ENTRY INTO FORCE OF THE CONVENTION

##### Article 2

(1) After the entry into force of the said Convention, the German social security authorities for statutory pensions insurance and accident insurance shall, in accordance with the national legislation which they apply, notwithstanding the provisions of paragraph (1) of Article 46 of the Convention, pay arrears of pension which are due for periods before the entry into force of the Convention to persons ordinarily resident in the territory of the United Kingdom. They shall pay these arrears, on a claim being made, as from the date of the event in respect of which the pensions became payable or from the 8th May, 1945, whichever is the later.

(2) The pensions to which the provisions of paragraph (1) of this Article shall apply are pensions which can be shown to have been already determined or claimed and which were not paid or determined as a result of the measures referred to in sub-paragraph (2) of paragraph (1) of Article 1 of Bizonal Economic Council Ordinance Number 119 of the 22nd August, 1949, Concerning Social Insurance Benefits for Victims of National Socialism (hereinafter referred to as the Persecuted Persons Ordinance).

(3) The provisions of paragraph (1) of this Article shall apply also to benefits paid in accordance with Section 9 of the Law of the 7th August 1953, concerning foreign pensions and pensions abroad.

(4) If there is no other German social security authority competent for the payment, in accordance with the provisions of paragraph (1) of this Article, of

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arrears, which are to be paid from the pensions insurance for manual workers for the period before the 1st April, 1952, then the Land Insurance Institute of the Free hansa City of Hamburg shall be competent.

**Article 3**

Arrears of pension for the period before the 8th May, 1945, shall be paid in accordance with the provisions of Article 2 to persons who are ordinarily resident in the United Kingdom if they can show—

- (a) that they are persecuted persons within the meaning of Section 1 of the Federal Compensation Law of the 29th June, 1956, or
- (b) that they were already resident in the United Kingdom before the 1st September, 1939, and this residence was then recognised by the appropriate German authorities as not voluntary. In such cases, residence abroad for the period after the 31st August, 1939, shall also be regarded as not voluntary.

**Article 4**

If persecuted persons within the meaning of Section I of the Federal Compensation Law have become incapacitated for work or unable to follow their normal occupation or have died, as a result of the measures referred to in subparagraph 2 of paragraph 1 of Article 1 of the Persecuted Persons Ordinance, pensions will be paid in accordance with Article 2 from the end of the month in which the insurance contingency occurred, provided that the beneficiary is ordinarily resident in the United Kingdom and the claim is made before the expiry of one year after the coming into force of the Convention.

**Article 5**

(1) Claims for the payment of arrears of pension in accordance with the provisions of Articles 2, 3 and 4 of the present Protocol shall be made to the appropriate social security authority. If the claimant does not know which is the appropriate social security authority, his claim shall be made, in relation to pensions insurance for salaried employees, to the Federal Insurance Institute for salaried employees, Berlin; in relation to pensions insurance for manual workers, to the Land Insurance Institute of the Free hansa City of Hamburg; in relation to pensions insurance for miners, to the Ruhr Miners Scheme at Bochum; in relation to accident insurance, to the Federation of Accident Insurance Societies, Bonn. These authorities shall transmit the claim, if necessary, to the appropriate social security authority.

(2) Where a claim is made in accordance with the provisions of paragraph (1) of this Article within twelve months of the date of the entry into force of the Convention, it shall not be rejected on the ground that it is late or time-barred. Any claim which was made before the date of the entry into force of the Convention to a social security authority of the United Kingdom shall be treated as if it had been made to a German social security authority within the same period. The social security authority to which the claim was submitted in the United Kingdom shall transmit it to the appropriate German social security authority.

**Article 6**

In so far as any pensions are payable for any period before the 1st July, 1948, they shall be paid at the rate of 1 Deutsche Mark to 10 Reichsmark.

**Article 7**

The competent authorities shall settle in an agreement the measures necessary for making these payments.

**PART III**  
**TRANSITIONAL AND FINAL PROVISIONS**

**Article 8**

(1) In determining the pensions to which the German legislation in force until the 1st January, 1957, is to be applied, the German social security authorities shall proceed as follows:

- (a) In deciding whether insurance rights are maintained, contribution periods and equivalent periods completed under the legislation of the United Kingdom shall be treated as equal to the contribution periods and equivalent periods completed under German legislation.
- (b) For the purpose of the half coverage rule, the date of first entry into insurance shall be the date of first entry into insurance under German legislation or under the legislation of the United Kingdom, whichever is the earlier.
- (c) For the purpose of determining the increment payable in accordance with German legislation, contribution periods which have been completed under the legislation of the United Kingdom shall be taken into account. The increment for these periods shall be calculated on the basis of the average amount which is attributable to the contribution periods and equivalent periods completed under German legislation.

(2) For the purpose of determining whether a pension is payable in accordance with the legislation concerning the composition and calculation of pensions in force before the 1st January, 1957, contributions which have been or are paid after the 31st December, 1956, under the legislation of the United Kingdom, shall be treated as contributions which have been or are paid after this date in accordance with German legislation.

(3) For the purpose of applying the provisions of paragraphs (1) and (2) of this Article, the German social security authorities shall take into account contribution periods and equivalent periods completed under the legislation of the United Kingdom—

- (a) in pensions insurance for miners, if the provisions of paragraph (2) of Article 21 of the Convention apply to the periods;
- (b) in pensions insurance for manual workers or in pensions insurance for salaried employees, whichever would have been appropriate if the person concerned had been employed in the territory of the Federal Republic in the occupation in which he was last employed in the territory of the United Kingdom.

(4) For the purpose of applying the provisions of sub-paragraph (b) of paragraph (3) of this Article, the following shall apply:

- (a) If the occupation last followed in the United Kingdom would not have been compulsorily insurable under German legislation, the contribution periods and equivalent periods shall be taken into account in pensions insurance for salaried employees. If the occupation last followed in the United Kingdom would not have been compulsorily insurable under German legislation because it was temporary, the contribution periods and equivalent periods shall be taken into account in pensions insurance for manual workers, if this would have been appropriate to the nature of the occupation had it not been temporary.
- (b) If the nature of the occupation last followed in the United Kingdom cannot be determined, the contribution periods and equivalent periods shall be taken into account in pensions insurance for manual workers.

**Article 9**

**SI 1961/1202**  
**Sch. 2, Arts. 8-9**

**GERMANY**  
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