

Island of  Guernsey

Ordinance of the States **XXXIV**
1991

Made	26th September, 1991.
Came into operation	26th September, 1991.

**The Social Insurance and Family Allowances
(Reciprocal Agreement with Austria)
(Amendment) Ordinance, 1991**

THE STATES, in exercise of the powers conferred upon them by sections 113 and 116 of the Social Insurance (Guernsey) Law, 1978, as amended(a), hereby order:-

Amendment to Convention.

1. For the purpose of giving effect to the Supplementary Convention on Social Security between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria signed at London on the 9th December, 1985, the Convention set out in the Schedule to the Social Insurance and Family Allowances (Reciprocal Agreement with Austria) (Guernsey) Ordinance, 1981(b) is amended as follows -

(a) Ordres en Conseil Vol. XXVI, p.292.

(b) Recueil d'Ordonnances Tome XXII, p.63.

- (a) in Article 1(1)5 for "the Federal Minister for Finance" substitute "the Federal Minister for Family, Youth and Consumer Protection";
- (b) for Article 1(1)17 substitute -
- " 17. "invalidity pension" means, in relation to the territory of the United Kingdom, invalidity benefit payable under the legislation of that Party, and, in relation to Austria, benefit payable under the pension insurance legislation of Austria in the case of reduced working capacity or permanent loss of earning capacity";
- (c) after Article 6(2) insert -
- " (3) A person employed as a member of the non-travelling personnel of an undertaking engaged in the international transport of passengers or goods by railway, road, or air, whether for a third party or on its own account, having its principal place of business in the territory of one Party, shall remain subject to the legislation of that Party when he is sent by that undertaking to work in the territory of the other Party.";

(d) after Article 9(3) insert -

" (4) Where in accordance with the provisions of paragraph (1) of this Article and of Articles 6 and 8 of this Convention a person is subject to the legislation of any part of the territory of the United Kingdom while he is gainfully occupied in the territory of Austria he shall be entitled to contribute voluntarily to sickness insurance under the legislation of Austria as if he were permanently resident in its territory.";

(e) for Article 10(1)(b) substitute -

" (b) for each week beginning in a relevant tax year under the legislation of the United Kingdom, the whole of which week is an equivalent period completed as an employed person under the legislation of Austria, as having completed an

equivalent period
under the legislation
of the United
Kingdom.";

(f) Article 12 is deleted;

(g) for Article 16(2) substitute -

" (2) Where a person is entitled to an old age pension (other than the basic component of a Category B retirement pension payable to a married woman) under the legislation of any one part of the territory of the United Kingdom without the application of the provisions of paragraph (1) of this Article, that pension shall be paid and the provisions of paragraph (1) of Article 17 of this Convention shall not be applied under that legislation. Where the old age pension payable is the basic component of a Category B retirement pension payable to a married woman, her pension entitlement shall be determined in accordance with the provisions of Article 17, if this is to her advantage.";

(h) for Article 17(2) substitute -

" (2) For the purposes of the calculation in paragraph (1) of this Article:

(a) where all the insurance periods completed by any person under the legislation of:

(i) either Great Britain, Northern Ireland or the Isle of Man

amount to less than one reckonable or, as the case may be, qualifying year, or relate only to periods before 6 April 1975 and in aggregate amount to less than 50 weeks; or

(ii) Jersey amount to less than an annual contribution factor of 1.00; or

(iii) Guernsey amount
to less than 50
weeks;

those periods shall be
treated as if they had
been completed under
the legislation of any
other part of the
territory of the
United Kingdom under
which a pension is, or
if such periods were
taken into account
would be, payable, or,
where two such
pensions are or would
be payable, under the
legislation of that
part which, at the
date on which entitle-
ment first arose or
arises, is paying or
would pay the greater
amount. Where, not-
withstanding the fore-
going, no old age
pension is payable

under the legislation of any part of the territory of the United Kingdom such periods shall be treated as if they had been completed under the legislation of Austria;

- (b) where all the insurance periods completed by any person under the legislation of Austria amount to less than twelve months, no pension shall be payable under that legislation and those periods shall be treated as if they had been completed under the legislation of that part of the territory of the United Kingdom under which a pension is, or

if such periods were taken into account would be payable, or, where such a pension is or would be payable under the legislation of two or more parts of the territory of the United Kingdom, as if they had been completed under the legislation of that part which, at the date on which entitlement first arose or arises, is paying or would pay the greater or greatest amount.";

(i) for Article 20(4) substitute -

" (4) for the purpose of applying the provisions of paragraph (1) of Article 16 and of Article 17 of this Convention periods during which a person was entitled to receive an invalidity pension or an old age pension under the legislation of any part of the territory of the United

Kingdom shall be treated as if they were neutral periods under the legislation of Austria;"

(j) for Article 22(3) substitute -

" (3) Where a woman is entitled to an old age pension under the legislation of any part of the territory of the United Kingdom instead of a widow's benefit under that legislation, then for the purpose of calculating a widow's pension under the legislation of Austria paragraph (1) of this Article shall be applied as if the woman were entitled to widow's benefit under the legislation of any part of the territory of the United Kingdom.";

(k) for Article 23(1) substitute -

" (1) If a person has completed insurance periods under the legislation of both High Contracting Parties, then for the purpose of any claim to invalidity pension under the legislation of one Party any insurance period or period of entitlement to sickness benefit or invalidity pension completed under the legislation of the

other Party shall be treated as if it were respectively an insurance period or period of entitlement to sickness benefit or invalidity pension under the legislation of the former Party.";

- (l) Article 23(3) shall become Article 23(3)(a) and the following subparagraph (b) shall be inserted immediately thereafter -

" (b) for the purpose of a claim for invalidity pension by virtue of this Convention under the legislation of Austria, the provisions of Articles 17 to 21 of this Convention shall apply mutatis mutandis subject to the provisions of paragraphs (4) and (5) of this Article.";

- (m) for Article 43(3) substitute -

" (3) This Convention shall not diminish any right to benefit acquired

under the legislation of either High Contracting Party before its date of entry into force, except to the extent to which such right to benefit would have to be determined afresh had the Conventions specified in paragraph (1) of this Article remained in force."; (n) in Article 1(a) of the Protocol after "under the National Health Service of the United Kingdom" insert "or the Isle of Man".

Citation.

2. This Ordinance may be cited as the Social Insurance and Family Allowances (Reciprocal Agreement with Austria) (Amendment) Ordinance, 1991.

K. H. TOUGH,
Her Majesty's Greffier