

Island of Guernsey

Ordinance of the States

VIII
1991

Made	13th March, 1991.
Came into Operation	13th March, 1991.

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

THE STATES, in exercise of the powers conferred upon them by section 113 of the Social Insurance (Guernsey) Law, 1978, as amended^(a), hereby order:—

Amendment.

1. In the Convention set out in the Schedule to the Social Insurance and Family Allowances (Reciprocal Agreement with Portugal) (Guernsey) Ordinance, 1979^(b)—

(a) in Article 11 paragraph (4) is renumbered (5) and the following paragraph is inserted after paragraph (3)—

“ (4) Where a person is employed in the territory of one Party and the legislation of the other Party applies to him in accordance with any of the provisions of Articles 5 to 9 of this Convention, he shall be treated under that legislation for the purpose of any claim to sickness benefit or maternity allowance as if he were in the territory of the latter Party.”;

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

(b) Recueil d'Ordonnances Tome XXI, p. 334.

(b) in Article 12 after paragraph (2) insert—

“ (3) Where a woman is confined on or after 4th July, 1982 in Great Britain, Northern Ireland or the Isle of Man (other than a woman who is treated as having been confined there by virtue of Article 12(1)), periods during which she was present in the territory of Portugal shall be treated for the purpose of a claim by her for maternity grant under the legislation of the Party in whose territory the confinement occurred as if they were periods during which she was present in that territory.”;

(c) for Article 26 substitute—

“ *Article 26*

(1) Subject to the provisions of paragraph (9) of this Article, where a person (other than a self-employed 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 Articles 5 to 9 of this Convention he shall be treated, for the purpose of any claim to receive family allowance under that legislation—

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

(2) Subject to the provisions of paragraphs (1), (3), (4) and (9) of this Article, a person (other than a self-employed person) subject to the legislation of one Party in respect of his employment shall be entitled to the family allowance provided for by the legislation of that Party for members of his family residing in the territory of the other Party, as though they were residing in the territory of the former Party.

(3) Subject to the provisions of paragraphs (4), (5) and (9) of this Article, a person resident in the territory of either Party (other than a self-employed person), who is in receipt of maternity allowance or benefit for unemployment, old age, total incapacity for work whether permanent or otherwise however caused, or survivor's benefit whether arising from industrial accident or industrial disease or otherwise under the legislation of one Party shall be entitled to the family allowance provided for by the legislation of that Party for members of his family residing in, or present in, as the case may be, the territory of the other Party, as though they were residing in, or present in, the territory of the former Party.

(4) The provisions of paragraph (3) of this Article shall not apply if there is entitlement to any of the benefits mentioned in that paragraph under the legislation of the Party in whose territory the member of the family is resident.

(5) Where there is entitlement to family allowance under the legislation of the territory of the United Kingdom otherwise than by virtue of this Convention and at the same time entitlement to family allowance for the same members of the family under the legislation of Portugal in accordance with paragraphs (1) or (2) of this Article, entitlement to benefit under the legislation of the territory of the United Kingdom shall be suspended so long as entitlement to benefit under the legislation of Portugal continues. Where, however, a person is subject to the legislation of Portugal and his spouse, having entitlement to family allowance under the legislation of the territory of the United Kingdom by virtue of this Convention or otherwise, is gainfully occupied in the territory of the United Kingdom, the right to family allowance under the legislation of Portugal shall be suspended and only family allowance under the legislation of the territory of the United Kingdom shall be paid.

(6) If the legislation of the territory of the United Kingdom relating to entitlement to family allowance is applicable to a person, he shall be treated, for the purpose of entitlement to family allowance, as if he had been present in the territory of the United Kingdom prior to his application for family allowance during any period when he was insured or employed within the territory or under the legislation of Portugal.

(7) For the purpose of any claim to family allowance under the legislation of Guernsey, a person whose place of birth is in the territory of Portugal shall be treated as if his place of birth were in the Islands of Guernsey, Alderney, Herm or Jethou.

(8) Where, but for the provisions of this paragraph, family allowance would be payable under the legislation of both Parties for the same children, family allowance shall be paid only under the legislation of the Party in whose territory the children concerned are ordinarily resident.

(9) Entitlement to family allowance under the legislation of Jersey shall exist only if the children are ordinarily resident in Jersey.”;

(d) Article 37 is deleted.

Citation.

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

K. H. TOUGH,
Her Majesty's Greffier

**Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey.**

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