

# Island of Guernsey

## Ordinance of the States **LXII**

**1972**

Made ... .. 14th December, 1972.

Deemed to have come into

Operation ... .. 1st October, 1972.

### **The Social Insurance (Reciprocal Agreement with Jamaica) (Guernsey) Ordinance, 1972**

THE STATES, in exercise of the powers conferred upon them by section sixty-eight of the Social Insurance (Guernsey) Law, 1964, as amended<sup>(a)</sup>, and of all other powers enabling them in that behalf, hereby order:—

1. The provisions contained in the Agreement on Social Security set out in the Schedule to this Ordinance shall have full force and effect and the Social Insurance (Guernsey) Law, 1964, as amended, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the provisions contained in the said Agreement.

Modifica-  
tion of  
Law.

2. (1) This Ordinance may be cited as the Social Insurance (Reciprocal Agreement with Jamaica) (Guernsey) Ordinance, 1972.

Citation,  
extent and  
commence-  
ment.

---

(a) Ordres en Conseil Vol. XIX, p. 286; Vol. XX, p. 126; Vol. XXI, p. 143; No. III of 1971; No. VII of 1971.

(2) This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

(3) This Ordinance shall be deemed to have come into force on the first day of October, nineteen hundred and seventy-two.

## SCHEDULE Section one

AGREEMENT ON SOCIAL SECURITY  
BETWEEN THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND AND THE GOVERN-  
MENT OF JAMAICA

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jamaica have agreed as follows:

## PART I—DEFINITIONS AND SCOPE

## ARTICLE 1

For the purposes of this Agreement, unless the context otherwise requires—

- (a) “benefit” means any pension, allowance, or other benefit payable under the legislation of one (or the other) Contracting Party, and includes any increase payable for a dependant;
- (b) “competent authority” means, in relation to the United Kingdom, the Secretary of State for Social Services for England, Scotland and Wales, the Ministry of Health and Social Services for Northern Ireland, the Isle of Man Board of Social Security, or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Jamaica, the Minister responsible for National Insurance, and in relation to either the United Kingdom or Jamaica, as the case may require, any person or body to whom the functions, relevant to this Agreement, of any of those persons or bodies, may be transferred;

- (c) "a contribution paid by or credited to a person" means a contribution or a credit (as the case may require), appropriate to the benefit in question, which has been paid by or credited to a person under the legislation of one (or the other) Party;
- (d) "legislation" means, according to the context, the legislation specified in Article 2 of this Agreement in force in any part of the territory of one (or the other) Party;
- (e) "old age benefit" means, in relation to the United Kingdom, a retirement pension or old person's pension, including age addition where appropriate, payable under the legislation of the United Kingdom, and, in relation to Jamaica, an old age pension payable under the legislation of Jamaica;
- (f) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland, the Isle of Man, and the Islands of Guernsey, Alderney, Herm and Jethou, and, in relation to Jamaica, the island of Jamaica;
- (g) other words and expressions have the meanings respectively assigned to them under the legislation which is being applied.

#### ARTICLE 2

- (1) The provisions of this Agreement shall apply—
  - (a) in relation to the United Kingdom, to—
    - (i) the National Insurance Act, 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1971, and the legislation which was consolidated by, or repealed

- by legislation consolidated by, those Acts;
- (ii) the National Insurance (Industrial Injuries) Act 1965, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 and the National Insurance (Industrial Injuries) (Isle of Man) Act 1971;
  - (iii) the Social Insurance (Guernsey) Law 1964;
- (b) in relation to Jamaica, the National Insurance Act, 1965.

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

(3) This Agreement shall apply, only if the Contracting Parties so agree, to laws, orders or regulations which amend or supplement the legislation mentioned in paragraph (1) or (2) of this Article for the purpose of giving effect to any reciprocal agreement on social security between one (or the other) Party and a third Party.

## PART II—CONTRIBUTIONS

### ARTICLE 3

(1) An employed person shall be subject, in relation to his employment, to the legislation of only one Contracting Party.

(2) If an insured person is liable to pay contributions as an employed person for any period under the legislation of one Party, he shall not be liable to pay contributions as a self-employed person or as

a non-employed person for that period under the legislation of the other Party.

#### ARTICLE 4

(1) Subject to the provisions of paragraphs (2) and (3) of this Article, where a person is employed in the territory of one Contracting Party, the legislation of that Party shall apply to him, even if he resides in the territory of the other Party or if his employers' principal place of business is in that territory.

(2) Where a person, who is insured under the legislation of one Party and is employed by an employer who has a place of business in the territory of that Party is sent by that employer to the territory of the other Party, that legislation shall continue to apply to him as if he were employed in the territory of the former Party, provided that his employment in the territory of the latter Party is not expected to last for more than twenty-four months or such longer period as may be agreed by the competent authorities of the two Parties in any particular case.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to members of the regular forces of either Party or to any person to whom any of the provisions of Articles 5, 6 and 7 of this Agreement apply.

#### ARTICLE 5

(1) Subject to the provisions of paragraph (2) of this Article, where a person, insured under the legislation of one Contracting Party and employed in the Government service of that Party or in the service of any public corporation of that Party, is sent in the course of his employment to the terri-

tory of the other Party, the legislation of the former Party shall continue to apply to him as if he were employed in the territory of the former Party.

(2) If a person has paid contributions under the legislation of one Party—

- (a) in respect of his employment as a diplomatic agent of the other Party before the Vienna Convention on Diplomatic Relations came into force for the former Party; or
- (b) in respect of any other employment in the Government service of the other Party before this Agreement comes into force;

he shall be entitled to choose, within three months of the entry into force of this Agreement, that the legislation of the former Party shall apply to him in respect of such employment; and, if he so chooses:

- (i) his choice shall take effect on the day on which he gives notice to the competent authority of the former Party;
- (ii) from that day the legislation of the former Party shall apply to him in respect of such employment, and the Government of the latter Party shall pay contributions under that legislation both as his employer and on behalf of him as an employed person; and
- (iii) any contributions so paid by that Government before that day shall be treated as if they had been properly paid under that legislation.

(3) Subject to the provisions of paragraphs (1) and (2) of this Article, where a person is employed in the territory of one Party, either in the Government service of the other Party or in the private service of a national of the latter Party to whom the provisions of paragraph (1) or paragraph (2) of

this Article apply, the legislation of the former Party shall apply to him, but, within three months of the entry into force of this Agreement or of the beginning of his employment in the territory of the former Party, whichever is the later, he may choose to be covered by the legislation of the latter Party; and, if he so chooses, his choice shall take effect on the day on which he gives notice to the competent authority of the former Party.

(4) For the purpose of this Article the expression "Government service" includes, in relation to the United Kingdom, the Government service of any part of the territory of the United Kingdom.

#### ARTICLE 6

(1) For the purpose of this Article, "ship" means, in relation to a Contracting Party, a ship, vessel or hovercraft (other than a ship, vessel or hovercraft belonging to Her Majesty) which is owned in the territory of that Party, or any other ship, vessel or hovercraft which is registered in that territory and not owned in the territory of the other Party; and a ship, vessel or hovercraft shall be deemed to be owned in one (or the other) territory if the owner, or where there is more than one owner, the managing owner or manager, resides or has his principal place of business in that territory.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, if a person, ordinarily resident in the territory of one Party, is employed on board a ship of the other Party, then, in relation to that employment, the legislation of the latter Party shall apply to him as if he were ordinarily resident in the territory of that Party.

(3) If a person, ordinarily resident in the territory of one Party, is employed as a master or a member of the crew of a ship of the other Party which is registered in the territory of the former Party or calls regularly at ports of that Party, then, in relation to that employment, the legislation of the former Party shall apply to him as if he were employed as master or a member of the crew of a ship of the former Party.

(4) If a person, ordinarily resident in the territory of one Party, is employed on board a ship of the other Party, in the service of an employer who has a place of business in the territory of the former Party and that employer is not the owner of the ship, then, in relation to that employment, the legislation of the former Party shall apply to him as if he were employed on board a ship of that Party.

#### ARTICLE 7

Where a person ordinarily resident in the territory of one Contracting Party is employed as a member of the crew of an aircraft registered in the territory of the other Party, the legislation of the latter Party shall apply to him as if any conditions relating to residence or domicile were satisfied in his case.

### PART III—BENEFIT

*Benefit of one Contracting Party payable in the territory of the other*

#### ARTICLE 8

(1) The provisions of this Article shall apply only to old age benefit, widow's benefit and invalidity benefit, payable under the legislation of one (or the

other) Contracting Party, and widower's benefit payable under the legislation of Jamaica.

(2) Subject to the provisions of paragraph (4) of this Article, where a person would be entitled to receive benefit under the legislation of one Party if he were in the territory of that Party, he shall be entitled to receive that benefit while he is in the territory of the other Party, provided that, if he is not ordinarily resident in the territory of the former Party, then, subject to the provisions of paragraph (3) of this Article, the rate of his benefit shall be determined in accordance with any provisions of that legislation which concern the payment of benefit to persons who are not ordinarily resident in the territory of the former Party.

(3) Any increase of benefit rates which, after the entry into force of this Agreement, is awarded under the legislation of one Party to beneficiaries in the territory of that Party shall apply also to beneficiaries under the legislation of that Party who are ordinarily resident in the territory of the other Party.

(4) Where a person is entitled to receive invalidity benefit under the legislation of the United Kingdom, he shall be entitled to receive that benefit in the territory of Jamaica provided that, at the time of leaving the United Kingdom he was considered by the competent authority of the United Kingdom likely to be permanently incapacitated for work, and that he subsequently continues to satisfy that authority that he remains incapacitated for work.

*Benefits for employment injury and industrial injuries*

ARTICLE 9

(1) Where a person would be entitled to receive any benefit under the legislation of one Contracting

Party in respect of an accident or a prescribed disease arising out of and in the course of insurable employment if he were in the territory of that Party, he shall be entitled to receive that benefit while he is in the territory of the other Party.

(2) The provisions of paragraph (1) of this Article shall apply also to any increase of the benefit specified in that paragraph and any additional allowance payable therewith, other than a special hardship allowance payable under the legislation of the United Kingdom.

#### ARTICLE 10

Where under the legislation of one Contracting Party, a person would be entitled to benefit in respect of a death due to an accident or a prescribed disease arising out of and in the course of insurable employment if a child were in the territory of that Party or had been there at the time when one of his parents died or at any other specified time, he shall be entitled to that benefit if the child is in the territory of the other Party or was there at that time.

#### ARTICLE 11

(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 Articles 4 and 5 of this Agreement, he shall be treated for the purpose of any right to receive benefit under that legislation for an accident happening or a disease contracted in the course of that employment as if the accident had happened or the disease had been contracted in the territory of the latter Party.

(2) If an accident happens to an employed person after he leaves the territory of one Party to go, in the course of his employment, to the territory of the other Party and before he arrives in the latter territory, then, for the purpose of any claim to receive benefit in respect of that accident—

- (a) the accident shall be treated as if it had happened in the territory of the Party whose legislation was expected to apply to him in the latter territory; and
- (b) his absence from the territory of either Party shall be disregarded in determining whether that legislation applied to him at the time of the accident.

### *Old age benefit*

#### ARTICLE 12

(1) The provisions of this Article shall apply to old age benefit under the legislation of both Contracting Parties.

(2) If a person has been insured under the legislation of both Parties, and, but for the provision of this Article, would not be entitled to a benefit under the legislation of one Party but would be so entitled if the number of contributions paid by or credited to him under the legislation of the other Party were added to the number paid by or credited to him under the legislation of the former Party, then he shall be entitled to a benefit under the legislation of the former Party.

(3) Where a person is entitled to a benefit under the legislation of one Party by virtue of paragraph (2) of this Article, the rate of that benefit shall be a part of the rate at which the benefit would be paid if the number of contributions paid or credited

under the legislation of the other Party were added to the number paid or credited under the legislation of the former Party, namely, that part which bears the same relation to the whole as the number of contributions paid or credited under the legislation of the former Party bears to the total number of contributions paid or credited under the legislation of both Parties.

(4) Where the number of contributions paid by or credited to a person under the legislation of one Party is less than 52, the provisions of paragraph (3) of this Article shall not apply in relation to that legislation and the number of contributions so paid by or credited to that person shall be treated as if they had been paid by or credited to that person under the legislation of the other Party.

(5) The provisions of paragraph (2) of this Article shall apply in relation to any claim only if the conditions for a benefit, other than contribution conditions, are satisfied under the legislation of both Parties.

(6) For the purpose of applying the provisions of paragraphs (2) and (3) of this Article, no account shall be taken—

(a) under the legislation of Jamaica of any contribution paid or credited under the legislation of the United Kingdom for any contribution year which ended before 4 April 1966;

(b) under the legislation of the United Kingdom of any contribution paid—

(i) under the legislation of Jamaica in respect of any period after the person attains pensionable age under the legislation of the United Kingdom; or

(ii) under the legislation of the United Kingdom in respect of any period after the

person attained pensionable age but any increase of benefit in respect of such contribution paid under the legislation of the United Kingdom shall be added to any benefit payable under the legislation of the United Kingdom which has been calculated under paragraph (3) of this Article;

- (c) of any contribution related to wages or earnings paid under the legislation of one (or the other) Party or of any benefit related to such a contribution payable under that legislation, but any such benefit which is payable by virtue of such a contribution shall be paid in addition to the benefit which is calculated in accordance with those provisions.

(7) For the purpose of applying the provisions of paragraphs (2) and (3) of this Article under the legislation of the United Kingdom in those cases where the person concerned is—

- (a) a woman claiming a benefit by virtue of her husband's insurance, or
- (b) a woman whose husband's contributions are taken into account in determining her right to receive a benefit by virtue of her own insurance, her marriage having been terminated by the death of her husband or otherwise,

any reference to a contribution paid by or credited to a person shall be construed, for the purpose of ascertaining her husband's average number of contributions, as including a reference to a contribution paid by her husband or credited to him.

(8) For the purpose of applying the provisions of paragraphs (2) and (3) of this Article under the legislation of Jamaica in those cases where the person

concerned is a woman whose husband's contributions are taken into account in determining her right to receive a benefit by virtue of her own insurance, any reference to a contribution paid by or credited to a person shall be construed, for the purpose of ascertaining the number of contributions paid by her husband in any contribution year, as including a reference to a contribution paid by her husband or credited to him.

*Dependants' benefit*

ARTICLE 13

Where a person who is entitled to receive old age benefit, widow's benefit, invalidity benefit or benefit in respect of an accident or a prescribed disease arising out of and in the course of insurable employment under the legislation of one Contracting Party would be entitled to receive an increase of that benefit if a dependant of his were in the territory of that Party, he shall be entitled to receive that increase if the dependant is in the territory of the other Party.

*Widow's or widower's benefit*

ARTICLE 14

The provisions of Article 12(2) to (8) of this Agreement shall apply also to widow's and widower's benefits under the legislation of one (or the other) Contracting Party (other than widow's and widower's grants under the legislation of Jamaica), subject to such modifications as the different nature of the benefits may require.

*Crediting of contributions*

## ARTICLE 15

If, for any period a person has received widow's benefit or invalidity benefit under the legislation of one (or the other) Contracting Party by virtue of Article 14 or 18 of this Agreement, and would, but for the provisions of this Article, have had contributions credited to him or her under that legislation for that period, contributions shall be so credited only for the part of that period which bears the same relation to the whole as the relation to the whole which was determined on his or her claim under that legislation, under paragraph (3) of Article 12 of the Agreement.

*Orphans' benefit*

## ARTICLE 16

(1) Where guardian's allowance would be payable to any person under the legislation of the United Kingdom if that person and the orphan for whom the allowance is claimed were ordinarily resident in the United Kingdom, it shall be paid while that person and the orphan are ordinarily resident in Jamaica, provided that under the legislation of both Contracting Parties an aggregate of not less than 156 contributions has been paid by or credited to the deceased parent by virtue of whose insurance the allowance is payable.

(2) Where orphan's pension or special child's pension would be payable to any person under the legislation of Jamaica if that person, and the orphan or the child, for whom the pension is claimed, were ordinarily resident in Jamaica, it shall be paid while that person, and the orphan or the child, are ordinarily resident in the United Kingdom. For the

purpose of any claim to receive orphan's pension or special child's pension under the legislation of Jamaica, any contribution paid under the legislation of the United Kingdom for any contribution year current on 4 April 1966 or later by the person by virtue of whose insurance the pension is claimed shall be treated as though it were a contribution paid under the legislation of Jamaica.

*Death grants and funeral grants*

ARTICLE 17

(1) For the purpose of any claim to receive a death grant under the legislation of the United Kingdom, a death which occurred in the territory of Jamaica shall be treated as if it had occurred in the territory of the United Kingdom.

(2) Where, but for the provisions of this paragraph, a death grant or a funeral grant, as the case may require, would have been payable in respect of the same death under the legislation of both Contracting Parties, only the greater of these grants shall be paid, and if the grants should be of equal amount, only the grant which is payable under the legislation of the Party in whose territory the death occurred shall be paid or, if the death occurred in the territory of neither Party, only the grant under the legislation of the Party in which the deceased was last ordinarily resident shall be paid.

(3) Where the person on whose insurance a grant has been claimed has been insured under the legislation of both Parties and no grant would have been payable in respect of a death under the legislation of either Party, then, the purpose of a claim to receive a grant under the legislation of the Party in whose territory the death occurred, or if it occurred in the territory of neither Party, under the legislation of the Party in whose territory the deceased

was last ordinarily resident, any contribution paid or credited under the legislation of the other Party shall be treated as if it were a contribution paid or credited under the legislation of the former Party.

*Invalidity benefit*

ARTICLE 18

The provisions of Article 12(2), (3), (5), (6) (a), (6) (b) (i) and (6) (c) of this Agreement shall apply also to invalidity benefit under the legislation of one (or the other) Contracting Party (other than invalidity grants under the legislation of Jamaica), subject to such modifications as the different nature of the benefits may require.

*Overlapping benefits*

ARTICLE 19

(1) Where, but for the provisions of this Article, a person would have been entitled to benefits, whether by virtue of this Agreement or otherwise, under the legislation of both Contracting Parties for the same period and the sum of those benefits exceeds the highest benefit he would have received under the legislation of either Party, an adjustment shall be made in accordance with paragraph (2) of this Article, provided that the benefit payable under the legislation of the other Party had been the corresponding benefit payable under the legislation of the former Party. For the purpose of calculating the highest benefit payable under the legislation of either Party a person shall be treated, where appropriate, as if the contribution conditions were fully satisfied in his case.

(2) For the purpose of making any adjustment required by paragraph (1) of this Article, each Party

shall reduce the benefit which would have been payable but for the provisions of paragraph (1) of this Article, by the fraction of the excess which corresponds to the ratio of the amount of that benefit to the total amount of benefit which would otherwise have been payable.

(3) The provisions of paragraph (1) of this Article shall not apply in any case—

- (a) where one of the benefits is an old age benefit payable to a woman by virtue of her husband's insurance and the other is widow's benefit;
- (b) where both the benefits are old age benefits payable to a man;
- (c) where both the benefits are old age benefits payable to a woman by virtue of her own insurance;
- (d) where both the benefits are widow's benefits.

#### PART IV—MISCELLANEOUS PROVISIONS

##### ARTICLE 20

The competent authorities of the Contracting Parties shall—

- (a) make such administrative arrangements as may be required for the application of this Agreement;
- (b) communicate to each other information regarding any measure taken by them for the application of the Agreement;
- (c) furnish assistance to one another with regard to any matter related to the application of the Agreement;
- (d) communicate to each other, as soon as possible, information regarding any change in

their legislation which may affect the application of the Agreement.

#### ARTICLE 21

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

#### ARTICLE 22

The competent authorities of the two Contracting Parties shall make such financial arrangements as may be required for the application of this Agreement.

#### ARTICLE 23

No benefit paid under the legislation of one Contracting Party by virtue of this Agreement shall be reimbursed out of any fund established under the legislation of the other Party.

#### ARTICLE 24

Where a person becomes entitled, under the legislation of one Contracting Party, to receive benefit for any period, the competent authority responsible for the payment of that benefit may, at the request of the competent authority of the other Party, deduct from that benefit any amount by which the latter authority has paid sums by way of benefit for that period under the legislation of the latter Party in excess of the benefit which was actually due to the person for that period under that legislation, and may transmit this amount to the latter authority.

## ARTICLE 25

Where a person has received supplementary benefit under the legislation of the United Kingdom for a period for which that person subsequently becomes entitled to old age benefit, widow's benefit, widower's benefit, invalidity benefit or employment injury disablement benefit under the legislation of Jamaica, the competent authority of Jamaica, at the request of and on behalf of the competent authority of the United Kingdom, shall withhold from the benefit due for that period the amount by which the supplementary benefit paid exceeded what would have been paid had the benefit under the legislation of Jamaica been paid before the amount of supplementary benefit was determined, and shall transfer the amount withheld to the competent authority of the United Kingdom.

## ARTICLE 26

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

## ARTICLE 27

Any claim, notice or appeal which should, for the purposes of the legislation of one Contracting Party, have been presented within a prescribed period to a competent authority of that Party, but which is presented within the same period to the corresponding authority of the other Party, shall be treated as if it had been presented to the authority of the

former Party. In such cases, the authority of the latter Party shall, as soon as possible, arrange for the claim, notice or appeal to be sent to the competent authority of the former Party.

#### ARTICLE 28

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

(2) No provision of this Agreement shall confer any right to benefit for a period before the date of the entry into force of the Agreement.

(3) Subject to paragraph (6) of Article 12 of this Agreement, any contributions which a person has paid or has had credited before the date of entry into force of the Agreement shall be taken into account for the purpose of determining the right to benefit under the Agreement.

(4) Subject to the provisions of paragraphs (1), (2) and (3) of this Article, benefit, other than lump sum payments, shall be payable under this Agreement in respect of events which happened before the date of entry into force of the Agreement.

(5) Any benefit which has been determined before the date of entry into force of this Agreement shall, on application by the person concerned within two years of the entry into force of the Agreement, be determined afresh in accordance with the provisions of paragraph (4) of this Article.

## ARTICLE 29

(1) No provision of this Agreement shall diminish any rights which a person has acquired under the legislation of either Contracting Party before the date of the entry into force of the Agreement.

(2) Subject to the provisions of paragraph (1) of this Article, this Agreement shall enter into force on 1st October 1972, and shall remain in force for a period of one year from that date. Thereafter, it shall continue in force from year to year unless notice of termination is given in writing by either Party at least three months before the expiry of any such yearly period.

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

Done in duplicate at London this 20th day of September 1972.

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

(Signed) A. Kershaw  
P. Dean

For the Government of Jamaica:

(Signed) H. F. Cooke  
R. E. K. Philips

R. H. VIDELO,

Her Majesty's Greffier.