

Island of  Guernsey

Ordinance of the States **XV**

1977

Made 30th March, 1977.
Deemed to have come into
Operation 15th November, 1977.

**The Social Insurance (Reciprocal
Agreement with Spain) (Amendment)
(Guernsey) Ordinance, 1977**

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

1. The Social Insurance (Guernsey) Law, 1964, as amended, and as modified by the Social Insurance (Reciprocal Agreement with Spain) (Guernsey) Ordinance, 1975(c) (hereafter in this Ordinance referred to as “the principal Ordinance”), shall have effect subject to such further modifications as may be required therein for the purpose of giving effect to the provisions contained in the Notes set out in the Schedule to this Ordinance. Modification
of the Law.

(a) Ordres en Conseil Vol. XIX, p. 286.

(b) Ordres en Conseil Vol. XX, p. 126; Vol. XXI, p. 143; Vol. XXIII, pp. 54, 143 and 222; and Vol. XXIV, pp. 175 and 363.

(c) No. XVIII of 1975.

Citation,
collective
title, extent
and
commence-
ment.

2. (1) This Ordinance may be cited as the Social Insurance (Reciprocal Agreement with Spain) (Amendment) (Guernsey) Ordinance, 1977.

(2) This Ordinance and the principal Ordinance may be cited together as the Social Insurance (Reciprocal Agreement with Spain) (Guernsey) Ordinances, 1975 and 1977.

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

(4) This Ordinance shall be deemed to have come into force on the fifteenth day of November, nineteen hundred and seventy-six.

SCHEDULE

Section one

NOTES EXCHANGED ON 4TH NOVEMBER 1976 BETWEEN
HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR
FOREIGN AND COMMONWEALTH AFFAIRS TO THE
AND THE SPANISH AMBASSADOR TO THE COURT OF
ST. JAMES'S

No. 1

HER MAJESTY'S PRINCIPAL SECRETARY OF STATE FOR
FOREIGN AND COMMONWEALTH AFFAIRS
SPANISH AMBASSADOR TO THE COURT OF ST. JAMES'S

4 November 1976

Your Excellency

I have the honour to refer Your Excellency to the Convention on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Spain signed on 13 September 1974.

As the Spanish authorities are aware, in consequence of a recent decision by one of the competent insurance authorities of the United Kingdom, it has been found that Article 5 (2) of the Convention, which is a unilateral provision, has wider effect than the Government of the United Kingdom intended. Article 5 (2) of the Convention reads as follows:—

“(2) Subject to the provision of Articles 12 (2), 15 (5), 21 (2) and 22 of this Convention, where a person claims any benefit under the legislation of the United Kingdom no provision of that legislation which would affect his claim by reason of his absence or the absence of a child, adult dependant or other person from the United Kingdom shall

apply to him if he, the child, adult dependant or other person, as the case may be, is, or was, at the time in question, in Spain.”

In the same way as Article 5 (1) relates to dependency benefit payable under the legislation of Spain, it was intended that Article 5 (2) should relate only to dependency benefit payable under the legislation of the United Kingdom, for the purpose of ensuring that that benefit would be payable in respect of dependants of a person claiming benefit, notwithstanding the absence of himself or his dependants in Spain.

In order to make it clear that it was not the intention to allow United Kingdom unemployment benefit to be drawn in respect of absence from the United Kingdom, the Government of the United Kingdom now proposes to amend Article 5 (2) to read as follows:—

“(2) Subject to the provisions of Articles 12 (2), 15 (5), 21 (2) and 22 of this Convention, where a person claims an increase of any benefit in respect of a dependant, child’s special allowance or guardian’s allowance, under the legislation of the United Kingdom no provision of that legislation which would affect that claim by reason of his absence or the absence of a child, adult dependant or other person from the United Kingdom shall apply to him in respect of that claim if he, the child, adult dependant or other person, as the case may be, is, or was, at the time in question, in Spain.”

In addition, the Government of the United Kingdom wish to take this opportunity to make an amendment to Article 23 of the Convention. Sub-paragraph (3) of this Article, which is a further

unilateral provision, was included in the Convention for the purpose of a provision of the legislation of the United Kingdom which has been repealed with effect from 6 April 1975. The Government of the United Kingdom now proposes that Article 23 (3) be deleted from the Convention.

If these proposals are acceptable to the Government of Spain, I have the honour to suggest that this Note and your reply to that effect shall constitute an agreement between our two Governments which shall enter into force on 15 November 1976.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

I. S. Winchester.

[For the Secretary of State].

No. 2

THE SPANISH AMBASSADOR TO THE COURT OF
ST. JAMES'S
TO HER MAJESTY'S PRINCIPAL SECRETARY OF STATE
FOR FOREIGN AND COMMONWEALTH AFFAIRS

[Translation]

4 November 1976

Sir

I have the honour to acknowledge receipt of your Note of 4 November 1976 which reads as follows:—

[The Note here sets out the text of No. 1]

As the Joint Commission established in accordance with Article 25 of the Convention on Social Security

between the United Kingdom and Spain has approved the note set out above, and as the Spanish delegation consider that the proposals therein do not substantially modify the terms of that Convention, I have the honour to state that the Government of Spain accepts the proposals of the Government of the United Kingdom of Great Britain and Northern Ireland and agrees that your Note and the present reply shall constitute an agreement between the two governments.

I avail myself of this opportunity to renew to you, Sir, the assurance of my highest consideration.

Perinat.

W. J. GAUDION,
Her Majesty's Deputy Greffier