

Island of



Guernsey

Ordinance of the States

XLII
2020

Made 25th November, 2020

The Social Security (Reciprocal Agreement with the Republic of Latvia) Ordinance, 2020

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THE STATES, in exercise of the powers conferred on them by section 113 of the Social Insurance (Guernsey) Law, 1978^a, and all other powers enabling them in that behalf, hereby order:-

Agreement to have effect.

1. (1) The Agreement between the States of Guernsey and the Government of the Republic of Latvia on Social Security, signed in Guernsey and in Riga on 23rd September, 2020 ("**the Agreement**"), as set out in the Schedule, shall have full force and effect.

(2) The Social Insurance (Guernsey) Law, 1978 shall have effect subject to such modifications as may be required for the purpose of giving effect to the Agreement.

Extent.

2. This Ordinance extends to the islands of Guernsey, Alderney, Herm and Jethou^b.

^a Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXI, p. 278; Vol. XXXII, p. 59; Vol. XXXIV, p. 510; Vol. XXXV(1), p. 161; Vol XXXVI, pp. 123 and 343; Vol XXXVIII, p. 59; Vol. XXXIX, p. 107; Vol. XL, p. 351; Order in Council No. IX of 2001; No. XXIII of 2002; No. XXIV of 2003; No. XI of 2004; No. XVIII of 2007; No. V of 2012; No. IV of 2014; Recueil d'Ordonnances Tome XXV, p. 148; Tome XXVI, p. 177; Ordinance Nos. XX and XXXIII of 2003; No. XLIV of 2007; No. VII of 2009; No. XLII of 2009; No. XVII of 2011; No. XXXVIII of 2012; No. XXX of 2013, Ordinance No. XXI of 2015.

^b in terms of Article 1(a) of the Agreement

Citation.

3. This Ordinance may be cited as the Social Security (Reciprocal Agreement with the Republic of Latvia) Ordinance, 2020.

Commencement.

4. This Ordinance shall come into force on the same day as is specified in Article 19(1) of the Agreement.

SCHEDULE**AGREEMENT****BETWEEN****THE STATES OF GUERNSEY AND THE GOVERNMENT OF THE REPUBLIC OF
LATVIA
ON SOCIAL SECURITY**

The States of Guernsey and the Government of the Republic of Latvia,
Wishing to establish reciprocity in the field of Social Security in respect of Pensions,
Have agreed as follows:

ARTICLE 1**DEFINITIONS**

1. For the purpose of this Agreement, the following definitions apply, except where the text provides otherwise:

(a) **Territorial scope**

"Guernsey" means the Islands of Guernsey, Alderney, Herm and Jethou;

"Latvia" means the Republic of Latvia;

(b) **General definitions**

"benefit" means any supplement to pension and benefits linked to the death of a pensioner or beneficiary under the legislation of Latvia;

"competent authority" means -

- (i) in relation to Guernsey, the Office of the Committee for Employment & Social Security of the States of Guernsey, and
- (ii) in relation to Latvia, the Ministry of Welfare;

"competent institution" means -

- (i) in relation to Guernsey, the Office of the Committee for Employment & Social Security of the States of Guernsey, and
- (ii) in relation to Latvia, the State Social Insurance Agency;

"contribution period" means –

- (i) in relation to Guernsey, a period in respect of which contributions appropriate to the pension are payable, have been paid or treated as paid under the legislation concerned;
- (ii) in relation to Latvia, a period in respect of which state social security contributions are made under the legislation of Latvia;

"equivalent period" means -

- (i) in relation to Guernsey, a period for which contributions appropriate to the pension have been credited under its legislation, and
- (ii) in relation to Latvia a period accumulated before 1996 which is deemed as an insurance period under the legislation of Latvia;

"insurance period" means a contribution period or an equivalent period;

"insured" means -

- (i) in relation to Guernsey, that contributions have been paid by, or are payable by, or in respect of, or have been credited in respect of, the person concerned, and
- (ii) in relation to Latvia, that compulsory or voluntary social

insurance contributions have been paid by, or in respect of the person concerned, or that person has acquired equivalent periods;

"legislation" means, in relation to a Party, such of the legislation specified in Article 2 as applies in the territory of a Party;

"Party" means -

- (i) Guernsey, and
- (ii) Latvia;

"pension" means –

- (i) in relation to Guernsey, old age pension under the legislation of Guernsey;
- (ii) in relation to Latvia, old age pension and survivor's pension under the legislation of Latvia;

"pension capital" means the pension capital sum calculated under the legislation of Latvia for the purposes of determining the amount of the pension;

"qualifying year" means –

- (i) in relation to Guernsey, an insurance period of not less than fifty weeks under the legislation of Guernsey;
- (ii) in relation to Latvia, an insurance period of 12 months.

2. Other words and expressions which are used in this Agreement have the meanings respectively assigned to them in the legislation concerned.

3. Any reference in this Agreement to an "Article" means an Article of this Agreement, and any reference to a "paragraph" is a reference to a paragraph of the Article in which the reference is made, unless it is stated to the contrary.

ARTICLE 2

SCOPE OF LEGISLATION AND PERSONS COVERED

1. This Agreement shall apply:
 - (a) in relation to Guernsey, to the Social Insurance (Guernsey) Law, 1978, as amended;
 - (b) in relation to Latvia, to the Law on State Social Insurance (1998), the Law on State Pensions (1996) and the Law on State Funded Pensions (2001).
2. Subject to paragraphs 3 to 5, this Agreement shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph 1.
3. This Agreement shall apply, unless the Parties agree otherwise, only to pensions and benefits under the legislation specified in paragraph 1 at the date of entry into force of this Agreement and for which specific provision is made in this Agreement.
4. This Agreement shall not apply to any agreement on social security which either Party has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph 1 for the purpose of giving effect to such an agreement, but shall not prevent either Party from taking into account under its legislation the provisions of any other agreement which that Party has concluded with a third party.

5. This Agreement shall apply:
- (a) in relation to Guernsey, to any person who is, or has been, subject to the legislation of either Party;
 - (b) in relation to Latvia, to any person residing in the territory of either Party who is, or has been, subject to the legislation of either Party and, where applicable, to other persons in regard to the rights they derive from that person.

ARTICLE 3

EQUAL TREATMENT

1. Subject to paragraph 2, a person who is, or has been, subject to the legislation of one Party shall, while the person is in the territory of the other Party, have the same rights and obligations under the legislation of the other Party as a national of that Party, subject to the provisions of this Agreement.
2. Paragraph 1 shall not apply to the Law on State Pensions of Latvia regarding insurance periods accumulated prior to 1 January 1991 outside the Republic of Latvia.

ARTICLE 4

PROVISIONS FOR THE EXPORT OF PENSIONS AND BENEFITS

A person who would be entitled to receive a pension under the legislation of one Party if the person were in the territory of that Party, including a pension by virtue of this Agreement, shall be entitled to receive that pension while the person is in the territory of the other Party, as if the person were in the territory of the former Party. This provision

shall equally apply to pensions awarded by either Party prior to entry into force of the Agreement, and to the benefits covered by this Agreement in relation to Latvia.

ARTICLE 5

GENERAL PROVISION FOR PENSIONS

Where a person is entitled to a pension based solely on the legislation of one Party, without taking into account the insurance periods of the other Party, the entitlement shall be determined and pension awarded based on the insurance periods of the former Party only.

ARTICLE 6

AGGREGATION OF PERIODS

1. For the purpose of determining entitlement to a pension under the legislation of Guernsey in accordance with Articles 7, 8 and 10, contribution periods or equivalent periods completed under the legislation of Latvia shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of Guernsey.
2. For the purpose of determining entitlement to a pension under the legislation of Latvia in accordance with Articles 9 and 10, contribution periods or equivalent periods completed under the legislation of Guernsey shall be treated as if they had been contribution periods or equivalent periods completed under the legislation of Latvia.

ARTICLE 7**PRO-RATA PENSIONS UNDER THE LEGISLATION OF GUERNSEY**

1. Subject to Articles 5, 6(1), 8 and 10 to 12, this Article shall apply to determine a person's entitlement to pension under the legislation of Guernsey.
2. In accordance with Article 6(1), the competent authority of Guernsey shall determine:
 - (a) the amount of the theoretical pension which would be payable if all the relevant insurance periods completed under the legislation of both Parties had been completed under the legislation of Guernsey;
 - (b) the proportion of such theoretical pension which bears the same relation to the whole as the total of the insurance periods completed under the legislation of Guernsey bears to the total of all the relevant insurance periods completed under the legislation of both Parties.

The proportionate amount thus calculated shall be the rate of pension actually payable by the competent authority of Guernsey.

3. For the purpose of the calculation in paragraph 2, where all the insurance periods completed by any person under the legislation of Guernsey amount to less than 50 weeks, those periods shall be treated in accordance with Article 12.

ARTICLE 8**INSURANCE PERIODS TO BE TAKEN INTO ACCOUNT**

For the purpose of applying Article 7, the competent authority of Guernsey shall take account only of insurance periods completed under the legislation of either Party which would be taken into account for the determination of pensions under the legislation of

Guernsey if they had been completed under its legislation.

ARTICLE 9

PENSIONS AND BENEFITS UNDER THE LEGISLATION OF LATVIA

1. Subject to Articles 5, 6(2) and 10 to 12, this Article shall apply to determine a person's entitlement to pension under the legislation of Latvia.
2. If, under the legislation of Latvia, entitlement to pension is established through the aggregation provisions of Article 6 (2), Latvia shall calculate the pension only on the basis of pension capital accumulated through insurance periods completed in Latvia.
3. Benefits shall be awarded based on the legislation of Latvia.

ARTICLE 10

OVERLAPPING PERIODS

1. For the purpose of applying Articles 7 and 9:
 - (a) where a compulsory contribution period completed under the legislation of one Party coincides with a compulsory contribution period completed under the legislation of the other Party, each Party shall take into account only the compulsory contribution period completed under its own legislation;
 - (b) where a voluntary contribution period completed under the legislation of one Party coincides with a voluntary contribution period completed under the legislation of the other Party, each Party shall take into account only the voluntary contribution period completed under its own legislation;

- (c) where a contribution period, other than a voluntary 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;
- (d) 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 under which the insured person was last insured before the day when the periods in question began or, if the person was never insured before that day, under the legislation under which the person first became insured after the day when the periods in question ended;
- (e) Latvia shall take into account voluntary periods completed under its legislation.

2. For the purpose of applying Article 7, where a compulsory contribution period or an equivalent period completed under the legislation of one Party coincides with a voluntary contribution period completed under the legislation of the other Party, only the compulsory contribution period or equivalent period shall be taken into account, provided that the amount of pension payable shall be increased by the amount by which the pension payable under the legislation of that Party would have been increased if all voluntary contributions paid under that legislation had been taken into account.

ARTICLE 11**NON-SIMULTANEOUS ENTITLEMENT**

Where a person does not simultaneously satisfy the conditions for entitlement to a pension under the legislation of both Parties, the person's entitlement from each Party shall be established as and when the person satisfies the conditions applicable under the legislation of that Party, taking account, where appropriate, of Articles 7 and 9.

ARTICLE 12**INSURANCE PERIODS OF LESS THAN ONE QUALIFYING YEAR**

Where all the insurance periods completed by a person under the legislation of one Party total less than one qualifying year, those periods shall be treated as if completed under the legislation of the other Party. Where such periods cannot be used to enhance the entitlement of the person, they shall be disregarded and neither Party shall be required to pay a pension for those periods.

ARTICLE 13**ARRANGEMENT FOR ADMINISTRATION AND CO-OPERATION**

1. The competent authorities of the two Parties shall:
 - (a) establish the administrative arrangement necessary for the application of this Agreement;
 - (b) communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes to their national legislation in so far as these changes affect the application of this Agreement;

- (c) assist one another on any matter relating to the application of this Agreement as if the matter were one affecting the application of their own legislation. This assistance shall be free of charge.
2. No certificate, document or statement of any kind written in an official language of either Party shall be rejected on the ground that it is written in a foreign language.
3. Any document of an official nature required to be produced for the application of this Agreement and conveyed between the Parties shall be exempt from any requirement of authentication by diplomatic or consular authorities or similar formality.
4. Unless disclosure is required under the legislation of a Party or by order of a court, any information about an individual which is sent in accordance with, and for the purposes of, this Agreement to that Party by the other Party is confidential and shall be used only for the purpose of implementing this Agreement and the legislation to which this Agreement applies.

ARTICLE 14

SUBMISSION OF CLAIM OR APPEAL

Any claim or appeal which should, for the purposes of the legislation of one Party, have been submitted within a prescribed period to the competent institution of that Party, shall be treated as if it had been so submitted if it is submitted within the same period to the competent institution of the other Party.

ARTICLE 15**CURRENCY AND PAYMENT PROCEDURE**

1. Payment of any pension or benefit in accordance with this Agreement may be made in the currency of the Party whose competent institution makes the payment and any such payment shall constitute a full discharge of the obligation in respect of which payment has been made.

2. Where a person in the territory of one Party is receiving a pension or benefit under the legislation of the other Party, it shall be payable by whatever procedure the competent institution of the latter Party deems appropriate.

ARTICLE 16**RESOLUTION OF DISPUTES**

The competent authorities shall make all reasonable efforts to resolve through an agreement between them any dispute about the interpretation or application of this Agreement.

ARTICLE 17**DURATION AND TERMINATION OF AGREEMENT**

This Agreement shall remain in force for an indefinite period. Either Party may denounce it at any time by giving six (6) months' notice in writing to the other Party.

ARTICLE 18
RIGHTS ON TERMINATION OF THIS AGREEMENT NOT REPLACED BY
ANOTHER

In the event of the termination of this Agreement, and unless a new agreement containing provisions regulating the matter is made, any right to a pension acquired by a person in accordance with this Agreement shall be maintained and negotiations shall take place between the competent authorities or competent institutions, as the case may be, for the settlement of any other rights then in course of acquisition by virtue of its provisions.

ARTICLE 19
ENTRY INTO FORCE

1. Each of the Parties shall notify the other in writing through diplomatic channels when all of their respective measures necessary for entry into force of this Agreement have been completed. This Agreement shall enter into force on the first day of the third month following the month after the date of the later of these notifications.

2. The commencement date of a pension or benefit payable by virtue of this Agreement shall be determined in accordance with the legislation of the Party concerned, but in no case will be earlier than the date on which this Agreement comes into force.

Signed in Guernsey and in Riga in the English and Latvian languages on 23rd September, 2020. Both texts are equally authentic.

Michelle Le Clerc

Ramona Petraviča

For the States of Guernsey

For the Government of the
Republic of Latvia