STATUTORY INSTRUMENTS

1984 No. 125

SOCIAL SECURITY

The Social Security (Finland) Order 1984

Made - - - - *8th February* 1984

At the Court at Buckingham Palace, the 8th day of February 1984

Present,

The Queen's Most Excellent Majesty in Council

Whereas at London on the 12th December 1978 a Convention on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Finland (hereinafter referred to as "the Convention") and a Protocol supplementing the Convention (hereinafter referred to as "the 1978 Protocol") **(a)** were signed on behalf of those Governments:

And Whereas at London on the 21st March 1980 and on the 24th January 1983 further protocols (hereinafter referred to as "the amending protocols") **(b)** were signed on behalf of those Governments amending the Convention with effect from the date of entry into force of the Convention (the Convention as so amended being set out in Schedule 1 to this Order):

And Whereas by Article 33 of the Convention it is provided that the Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged:

And Whereas by Article 5 of the 1978 Protocol (which is set out in Schedule 2 to this Order) it is provided that the 1978 Protocol shall form an integral part of the Convention:

And Whereas the Convention has been ratified by the said Governments and the instruments of ratification were exchanged on the 30th December 1983 and accordingly the Convention and the amending protocols entered into force on the 1st February 1984:

And Whereas by section 143 of the Social Security Act 1975 **(c)** and section 15(1) of the Child Benefit Act 1975 **(d)** it is provided that Her Majesty may by Order in Council make provision for modifying or adapting the said Social Security Act and for modifying the provisions of Part I of the said Child Benefit Act and regulations made under it in their application to cases affected by agreements with other governments providing for reciprocity in matters specified in those sections:

Now, therefore, Her Majesty, in pursuance of the said section 143, and the said section 15(1), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(a) *See* Cmnd. 7498. **(b)** *See* Cmnd. 8113 and Cmnd. 9006.

(c) 1975 c.14; subsection (1A) of section 143 was inserted by section 6(1) of the Social Security Act 1981 (c.33).

(d) 1975 c.61; section 15 was amended by section 6(2) of the Social Security Act 1981.

Citation

1. This Order may be cited as the Social Security (Finland) Order 1984.

Modification of the Social Security Act 1975

2. The Social Security Act 1975 shall be modified to such extent as may be required to give effect to the provisions contained in the Convention, as amended by the amending protocols, so far as the same relate to England, Wales and Scotland.

Modification of the Child Benefit Act 1975

3. Part I of the Child Benefit Act 1975 and any regulations made under it shall be modified to such extent as may be required to give effect to the provisions contained in the Convention, as amended by the amending protocols, so far as the same relate to England, Wales and Scotland.

Revocation and variation of Orders

4.—(1) The Family Allowances, National Insurance and Industrial Injuries (Finland) Order 1960 **(a)** is hereby revoked.

(2) The reference to the said Order of 1960 shall be omitted in Schedule 1 to the Social Security (Reciprocal Agreements) Order 1976 **(b)** , the Schedule to the Social Security (Reciprocal Agreements) Order 1979 **(c)** and in Schedules 1 and 2 to the Social Security (Reciprocal Agreements) Order 1982 **(d)** .

N. E. Leigh,
Clerk of the Privy Council.

(a) S.I. 1960/212. **(b)** S.I. 1976/225. **(c)** S.I. 1979/290.
(d) S.I. 1982/1528.

SCHEDULE 1

(The provisions inserted or substituted by the amending protocols are shown in italics.)

CONVENTION ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Finland;

Having established reciprocity in the field of social security by means of the Convention which was signed on their behalf at Helsinki on 28 July 1959;

Desiring to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows;

PART I

General Provisions

ARTICLE 1

(1) For the purpose of this Convention:

(a) "the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

(b) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and also the Isle of Man, and, in relation to Finland, the territory of the Republic of Finland;

(c) "legislation" means the legislation specified in Article 2 of this Convention which is in force in the territory of one (or the other) Party or in any part of that territory;

(d) "competent authority" means the authority responsible for the social security schemes in all or part of the territory of each Party; in relation to the territory of the United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland or the Isle of Man Board of Social Security, as the case may require, and, in relation to Finland the Ministry of Social Affairs and Health;

(e) "insurance authority" means, in relation to the territory of the United Kingdom, the authority competent to decide entitlement to the benefit in question, and, in relation to Finland, the competent institution;

(f) "competent institution" means the authority from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that authority is situated;

(g) "insured" means, in relation to the territory of the United Kingdom, that contributions have been paid or are payable by or have been credited in respect of the person concerned and, for the purpose of Section 5 of Part III of this Convention, that the person is, or is treated as being, an employed person, and in relation to Finland, a person who belongs to a social insurance scheme according to the Finnish legislation;

(h) "insurance period" means, in relation to the territory of the United Kingdom, a contribution period or an equivalent period; and, in relation to Finland, a period during which a person has belonged to a social insurance scheme according to the Finnish legislation;

(i) "contribution period" means a period in respect of which contributions appropriate to the benefit in question are payable, have been paid or treated as paid under the legislation of one (or the other) Party;

(j) "equivalent period" means, in relation to the territory of the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

(k) "dependant" means a person who would be treated as such for the purpose of any claim to receive benefit in respect of a dependant under the legislation of the territory of the United Kingdom or Finland;

(l) "pension", "allowance" or "benefit" include any increase of, or any additional amount payable with a pension, allowance or benefit respectively;

(m) "sickness benefit" means, in relation to the territory of the United Kingdom, sickness benefit payable under the legislation of that Party and, in relation to Finland, the daily allowance payable during a period of disability as a result of sickness;

(n) "unemployment benefit" means, in relation to the territory of the United Kingdom, unemployment benefit payable under the legislation of that Party and, in relation to Finland, the benefits payable under the National Unemployment Funds Act and the Employment Act;

(o) "maternity benefit" means, in relation to the territory of the United Kingdom, maternity grant and maternity allowance payable under the legislation of that Party, and in relation to Finland, the daily allowance payable during the confinement or maternity under the Sickness Insurance Act and the cash benefit payable under the Maternity Grant Act;

(p) "invalidity pension" means, in relation to the territory of the United Kingdom, invalidity benefit, other than non-contributory invalidity pension, payable under the legislation of that Party, and in relation to Finland, pensions payable during invalidity under the Employment Pension legislation;

(q) "old age pension" means, in relation to the territory of the United Kingdom, a retirement pension payable under the legislation of that Party and, in relation to Finland, pensions payable after reaching a certain pensionable age according to the National Pension legislation and the Employment Pension legislation;

(r) "widow's benefit" means, in relation to the territory of the United Kingdom, widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of that Party, and in relation to Finland, survivor's pension to widows and to children in her care according to the Survivors' Pensions Act and the Employment Pension legislation;

(s) "ship or vessel" means, in relation to the territory of the United Kingdom, any ship or vessel whose port of registry is a port in the territory of the United Kingdom or, in the case of a hovercraft, which is registered in and whose owner has a place of business in the territory of the United Kingdom or any other ship or vessel of which the owner (or managing owner if there is more than one owner) or manager resides or has his principal place of business in that territory and, in relation to Finland, any ship or vessel which sails under the Finnish flag;

(t) "gainfully occupied" means being an employed or self-employed person;

(u) "employed person" means a person who comes within the definition of an employed person or an employed earner or a person who is treated as such in the applicable legislation and the words "person is employed" shall be construed accordingly;

(v) "employment" means employment as an employed person and the words "employ", "employed" or "employer" shall be construed accordingly;

(w) "self-employed person" means a person who comes within the definition of a self-employed person or a self-employed earner or a person who is treated as such in the applicable legislation and the words "person is self-employed" shall be construed accordingly.

(2) Other words and expressions which are used in the Convention have the meanings respectively assigned to them in the legislation concerned.

ARTICLE 2

(1) The provisions of this Convention shall apply:

(a) in relation to the territory of the United Kingdom, to:

(i) the Social Security Act 1975 and the Social Security (Northern Ireland) Act 1975;

(ii) the Social Security Act 1975 (an Act of Parliament) as applied to the Isle of Man by orders made under the provisions of the Social Security Legislation (Application) Act 1974 (an Act of Tynwald);

(iii) The Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as applied to the Isle of Man by the Social Security Legislation (Application) (Child Benefit) Order 1976, an order made by virtue of Section 1 of the Social Security Legislation (Application) Act 1974 (an Act of Tynwald);

and the legislation which was consolidated by those Acts or Orders or by legislation consolidated by them;

(b) in relation to Finland to:

(i) the Sickness Insurance Act of 4 July 1963 and the Maternity Grant Act of 13 June 1941;

(ii) the Accident Insurance Act of 20 August 1948 and the Occupational Diseases Act of 29 December 1967, and the laws connected with them;

(iii) the National Pensions Act of 8 June 1956, the Survivors' Pensions Act of 17 January 1969, the Assistance Supplements and Housing Allowances Act of 4 July 1969 and the Child Care Allowances Act of 4 July 1969, and the laws connected with them;

(iv) the Employees' Pensions Act of 8 July 1961, the Temporary Employees' Pensions Act of 9 February 1962, the Farmers' Pensions Act of 14 July 1969, the Self-Employed Pensions Act of 14 July 1969, the Seamen's Pension Act of 26 January 1956, the Pensions Act for the Employees of the Local Government of 30 April 1964, the Pensions Act for the Trusted Persons of the Local Government of 21 July 1977, the Evangelical-Lutheran Church Pensions Act of 20 May 1966, the Evangelical-Lutheran Church Survivors' Pensions Act of 10 April 1970, the Government Employees' Pensions Act of 20 May 1966, and the Government Employees' Survivors' Pensions Act of 31 December 1968, and the laws connected with them;

(v) the Child Allowance Act of 22 July 1948;

(vi) the National Unemployment Funds Act of 23 March 1934 and the Employment Act of 23 December 1971.

(2) *Subject to the provisions of paragraph* (4) *of this Article, this Convention shall also apply to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph* (1) *of this Article and to any legislation which is not specified in paragraph* (1)*(b) of this Article but which relates to contributions appropriate to the benefits under the legislation there specified.*

(3) This Convention shall apply to any legislation which relates to a branch of social security not covered by the legislation specified in paragraph (1) of this Article, only if the two Parties make an arrangement to that effect.

(4) This Convention 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) of this Article for the purpose of giving effect to such an agreement.

(5) Reciprocity in the field of medicine and public health, including the provision of immediate treatment of nationals of one Party while they are temporarily in the territory of the other Party, is provided for in a protocol signed simultaneously with this Convention.

ARTICLE 3

(1) A person subject to the legislation of one Party who becomes resident in the territory of the other Party shall, together with his dependants, be subject to the obligations and shall enjoy the advantages of the legislation of the other Party under the same conditions as a national of that Party, subject to any special provision of this Convention.

(2) For the purpose of Article 8 of the Supplementary Benefits (Northern Ireland) Order 1977, a national of either Party shall be treated as if he had been resident in the United Kingdom during any period during which he was resident in Finland.

ARTICLE 4

(1) Subject to the provisions of Articles 11 to 22 of this Convention, where a person would be entitled to old age pension or widow's benefit or any pension, allowance or gratuity payable in respect of an industrial injury or industrial disease under the legislation of one Party if he were in the territory of that Party, he shall be entitled to that benefit while he is in the territory of the other Party as if he were in the territory of the former Party.

(2) Subject to the provisions in Part III of this Convention, where a person claims any benefit, or an increase of any benefit, in respect of a dependant, under the legislation of either Party, no provision of the Party's legislation which is applicable to the case and which would affect that claim by reason of his absence or the absence of a child, adult dependant or other person from the territory of that Party, 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 the territory of the other Party.

PART II

Provisions which Determine the Legislation Applicable

ARTICLE 5

Subject to the provisions of Articles 6 to 9 of this Convention, a person's liability to be insured under the legislation of the United Kingdom, whilst gainfully occupied, shall depend on his being so occupied in the territory of the United Kingdom and, under the legislation of Finland, as concerns employment pension, benefits for industrial injuries and diseases and benefit from an unemployment fund, on his being gainfully occupied in that country and, in other cases, on his being ordinarily resident there.

ARTICLE 6

(1) Where a person, who is insured under the legislation of one Party and is employed by an employer in the territory of that Party, is sent by that employer to work in the territory 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 that Party provided that the employment in the territory of the latter Party is not expected to last for more than twelve months and that he is not sent to replace another employee who has completed his period of posting. No contributions shall be payable in respect of his employment under the legislation of the latter Party. Where, for unforeseen reasons his employment in the territory of the latter Party continues after such a period of twelve months, the legislation of the former Party shall continue to apply to him for any further period of not more than twelve months, provided that the competent authority of the latter Party agrees thereto before the end of the first period of twelve months.

(2) The following provisions shall apply to any person employed as a member of the travelling personnel of an undertaking engaged in the transport of passengers or goods by railway, road, inland waterway or air, whether for another undertaking or on its own account:

(a) subject to the provisions of sub-paragraphs *(b)* and *(c)* of this paragraph, where a person is employed by an undertaking which has its principal place of business in the territory of one Party, the legislation of that Party shall apply to him, even if he is employed in the territory of the other Party;

(b) subject to the provisions of sub-paragraph *(c)* of this paragraph, where the undertaking has a branch or agency in the territory of one Party and a person is employed by that branch or agency, the legislation of that Party shall apply to him;

(c) where a person is ordinarily resident in the territory of one Party and is employed wholly or mainly in that territory, the legislation of that Party shall apply to him, even if the undertaking which employs him does not have its principal place of business or branch or any agency in that territory.

ARTICLE 7

(1) Subject to the provisions of paragraphs (2), (3) and (4) of this Article, where a person who is ordinarily resident in the territory of either Party is employed on board any ship or vessel of one Party, the legislation of that Party shall apply to him as if any conditions relating to residence were satisfied in his case.

(2) Where a person who is insured under the legislation of one Party and employed in the territory of that Party or on board any ship or vessel of that Party, is sent by an employer in the territory of that Party to work on board a ship or vessel of the other Party, the legislation of the former Party shall continue to apply to him provided that his employment on board the ship or vessel of the latter Party is not expected to last for a period of more than twelve months and that he is not sent to replace another employeee who has completed his period of posting. Where for unforeseen reasons his employment on board the ship or vessel of the latter Party continues after such period of twelve months, the legislation of the former Party shall continue to apply to him for any further period of not more than twelve months, provided that the competent authority of the latter Party agrees thereto before the end of the first twelve months.

(3) Where a person, who is not normally employed at sea, is employed other than as a member of the crew, on board a ship or vessel of one Party, in the territorial waters of, or at a port of, the other Party, the legislation of the latter Party shall apply to him as if any conditions relating to residence were satisfied in his case, provided that he is ordinarily resident in the territory of one of the Parties.

(4) Where a person, who is ordinarily resident in the territory of one Party and employed on board any ship or vessel of the other Party, is paid remuneration in respect of that employment by a person who is ordinarily resident in, or by an undertaking having its principal place of business in, the territory of the former Party, the legislation of the former Party shall apply to him as if the ship or vessel were a ship or vessel of the former Party, and the person or undertaking by whom the remuneration is paid shall be treated as the employer for the purposes of such legislation.

ARTICLE 8

(1) This Convention shall not apply to established members of the Diplomatic Service of either Party.

(2) Subject to the provision of paragraph (1) of this Article, where any person, who is in the Government Service of one Party or in the service of any public corporation of that Party, is employed in the territory of the other Party, the legislation of the former Party shall apply to him as if he was employed in its territory.

(3) Where a person, other than a person to whom paragraphs (1) and (2) apply, is employed in a diplomatic mission or consular post of one Party in the territory of the other Party, or in the private service of an official of such a mission or post, the legislation of the former Party shall apply to him as if he were employed in its territory, but within three months of the entry into force of the present Convention, or within three months of the beginning of the employment in the territory of the latter Party, whichever is later, he may choose to be insured under the legislation of the latter Party, provided that he was so insured in the territory of the latter Party immediately before the commencement of the employment at that mission or post.

ARTICLE 8A

Where an employed person, while insured under the legislation of the United Kingdom, is ordinarily resident in Finland, the Government of Finland shall levy no contribution payable under the legislation specified in Article 2 of the Convention nor under the Employers Social Security Contributions Act of 4 July 1963 in respect of the employment in question.

ARTICLE 9

The competent authorities of the two Parties may agree to modify the provisions of Articles 5 to 8 of this Convention in respect of particular persons or categories of persons.

PART III

Special Provisions

Section 1

Special Provisions Relating to the Application of the Legislation of the Territory of the United Kingdom

ARTICLE 10

(1) For the purpose of calculating an earnings factor for entitlement to any benefit referred to in Articles 11 to 21 of this Part of this Convention which is provided under the legislation of the territory of the United Kingdom a person shall be treated for each week beginning in a relevant tax year under the legislation of that Party the whole of which week is a contribution period completed as an insured person under the legislation of Finland, as having paid a contribution as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit.

(2) For the purpose of converting to an insurance period any earnings factor achieved in any tax year under the legislation of the territory of the United Kingdom the competent authority of that Party shall divide the earnings factor by that year's lower earnings limit. The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in that year, shall be treated as representing the number of weeks in the insurance period completed under that legislation.

Section 2

Sickness and Maternity Benefit and Invalidity Pension

ARTICLE 11

(1) *Where a person has, since his last arrival in the territory of one Party, completed a contribution period under the legislation of that Party or become resident there, as the case may be, any insurance period completed under the legislation of the other Party shall, subject to the provisions of Article 10 of this Convention, be treated for the purpose of any claim for sickness benefit or maternity allowance made under the legislation of the former Party, as if it were an insurance period completed under the legislation of the former Party.*

(2) *Where a person would be entitled to sickness benefit or maternity allowance under the legislation of one Party if he were in the territory of that Party he shall be entitled to that benefit while he is in the territory of the other Party if:*

(a) his condition necessitates immediate treatment during a stay in the territory of the latter Party and, within three days of commencement of incapacity for work or such longer period as the insurance authority of the former Party may allow, he submits to the competent authority of the former Party a certificate of incapacity for work issued by the doctor treating him; or

(b) having become entitled to sickness benefit or maternity allowance under the legislation of the former Party, he is authorised by the competent institution to return to the territory of the Party where he resides or to transfer his residence to the territory of the other Party; or

(c) he is authorised by the competent institution of the former Party to go to the territory of the latter Party to receive there the treatment appropriate to his condition.

The authorisation required in accordance with sub-paragraph *(b)* of this paragraph may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health or the receipt of medical treatment.

(3) Where, but for the provisions of this paragraph, a person would be entitled to sickness benefit or maternity allowance under the legislation of both Parties for the same period whether by virtue of the present Convention or otherwise, that benefit shall be granted exclusively under the legislation under which the person was last insured.

ARTICLE 12

(1) *Where a woman is confined in the territory of one Party, for the purpose of a claim for maternity grant under the legislation of that Party periods of presence or residence completed in the territory of the other Party shall, where necessary, be treated as if they were periods of presence or residence completed in the territory of the former Party.*

(2) *Where a woman would be entitled to a maternity grant under the legislation of both Parties in respect of the same confinement, whether by virtue of this Convention or otherwise:*

(a) the grant shall be payable only under the legislation of the Party in whose territory the confinement occurs; or

(b) if the confinement does not occur in the territory of either Party, the grant shall be payable only under the legislation of the Party under whose legislation the woman was last insured before the confinement or, if she was never insured, under the legislation of the Party under whose legislation her husband was last insured before her confinement.

ARTICLE 13

(1) Where under the legislation of the United Kingdom a person is entitled to sickness benefit by virtue of the provisions of paragraph (2) of Article 11 of this Convention, or would be entitled to invalidity pension if he were in the territory of the United Kingdom, but he is not entitled to a pension under the Finnish national pensions legislation, he shall be entitled while he is in the territory of Finland to receive that benefit or pension under the legislation of the United Kingdom as if he were in the territory of the United Kingdom for a period of not exceeding five years except that the rate of any benefit or pension payable shall be reduced by the amount of any benefit payable for the same period in respect of incapacity for work under the legislation of Finland, other than sickness benefit.

(2) Where under the legislation of Finland a person is entitled to sickness benefit by virtue of the provisions of paragraph (2) of Article 11 of this Convention he shall be entitled while he is in the territory of the United Kingdom to receive that benefit for the maximum period it would have been payable if he had been in the territory of Finland and thereafter his entitlement to invalidity pension shall be determined under the legislation of the United Kingdom as if he had received sickness benefit under that legislation for 168 days.

(3) *The provisions of paragraph (2) of Article 15 of this Convention shall apply mutatis mutandis for the purposes of determining entitlement to additional component payable under the legislation of the United Kingdom.*

Section 3

Unemployment Benefit

ARTICLE 14

(1) Where a person has, since his last arrival in the territory of one Party, completed a contribution period under the legislation of that Party, he shall be treated, for the purpose of a claim for unemployment benefit under the legislation of that Party, as if any insurance period completed under the legislation of the other Party were an insurance period completed under the legislation of the former Party.

(2) The application of paragraph (1) under Finnish legislation presupposes that the person concerned has been employed in Finland for at least four weeks in total during the last twelve months before submitting his claim. Paragraph (1) shall apply, however, even when his employment has terminated before the expiration of four weeks, if it was terminated through no fault of the employed person and had been intended to last for a longer period.

(3) Where a person claims unemployment benefit under the legislation of one Party by virtue of paragraph (1) of this Article, any period for which he received such benefit under the legislation of the other Party during the last 12 months before the day for which his claim is made shall be taken into account as if it were a period for which he had received such benefit under the legislation of the former Party.

Section 4

Old Age Pension and Widow's Benefit

ARTICLE 15

(1) *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 the United Kingdom by virtue of the contributions of her husband) under the legislation of one Party otherwise than by virtue of the provisions of this Convention, that pension shall be payable and the provisions of Article 16 shall not apply under that legislation.*

(2) For the purposes of determining entitlement to additional component payable under the legislation of the United Kingdom, no account shall be taken of any insurance period completed under the legislation of Finland; and for the purposes of this Article and Article 16 of this Convention additional component shall be treated as a separate benefit to which the provisions of that Article 16 do not apply.

ARTICLE 16

(1) Where a person is not entitled to an old age pension under the legislation of the United Kingdom in accordance with the provisions of Article 15 of this Convention, any insurance period which he has completed under the legislation of Finland shall, subject to the provisions of Article 10 of this Convention, be treated as if it were an insurance period completed under the legislation of the United Kingdom, and his entitlement to an old age pension under the legislation of the United Kingdom shall be determined in accordance with paragraphs (2) and (3) of this Article.

(2) The insurance authority of the United Kingdom shall determine:

(a) first the amount of the theoretical pension which would be payable if all the insurance periods completed by him under the legislation of both Parties had been completed under the legislation of the United Kingdom; and then

(b) the amount of that part of such theoretical pension, which bears the same relation to the whole as the total of the insurance periods completed by him under the legislation of the United Kingdom bears to the total of all the insurance periods which he has completed under the legislation of both Parties.

The amount thus calculated shall be the pension actually payable to the person by the competent institution.

(3) For the purposes of the calculation in paragraph (2) of this Article, where all the insurance periods completed by any person under the legislation of:

(a) either the United Kingdom 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;

(b) Finland in aggregate amount to less than 12 months;

those periods shall be treated as if they had been completed under the legislation of another part of the territory of that Party under which a pension is, or if such periods are taken into account would be, payable, or under the legislation of that part which would be most beneficial to that person, or where no pension is or would be payable under the legislation of any other part of that territory, under the legislation of the other Party.

(4) For the purpose of applying the provisions of paragraph (2) of this Article:

(a) the insurance authority of the United Kingdom shall take account only of insurance periods which are taken into account for the determination of pensions under the legislation of that Party, and in relation to a woman, shall, where appropriate, take into account in accordance with that legislation insurance periods completed by her husband;

(b) no account shall be taken of any graduated contributions paid under the legislation of the territory of the United Kingdom and the amount of any graduated benefit payable by virtue of such contributions shall be added to the amount of any pension payable in accordance with paragraph (2) of this Article under that legislation;

(c) any increase of pension in respect of a child or children shall be excluded from the amount of pension calculated in accordance with the provisions of paragraph (2) of this Article.

(5) If an old age or invalidity pension according to the Finnish National Pensions Act or a widow's benefit according to the Finnish Survivors' Pensions Act is granted to a national of the United Kingdom while living in Finland, he shall be entitled to receive this pension or benefit while staying in the United Kingdom on the same conditions as a national of Finland.

(6) Where a national of the United Kingdom while living in the territory of the United Kingdom or in the territory of Finland in other respects fulfils the qualifications for entitlement to the old age pension according to the Finnish Pensions Act, he shall be granted the basic amount of this pension on application, if he has been resident in Finland for an unbroken period of at least five years after having reached the age of 16 years.

(7) Where a national of the United Kingdom while living in the territory of the United Kingdom or in the territory of Finland in other respects fulfils the qualifications for entitlement to the widow's benefit according to the Finnish Survivors' Pensions Act, the widow shall be granted the basic amount of this benefit on application, if the deceased and the widow had been resident in Finland for an unbroken period of at least five years after having reached the age of 16 years. Survivor's pension to children in the care of the widow shall be paid in full on the same conditions.

ARTICLE 17

Where a person does not simultaneously satisfy the conditions for entitlement of an old age pension under the legislation of both Parties, his entitlement under the legislation of one Party shall be established as and when he satisfies the conditions laid down by the legislation of that Party.

ARTICLE 18

The provisions contained in Articles 15 to 17 of this Convention shall apply, with such modifications as the differing nature of the benefits shall require, to widow's benefit.

Section 5

Benefits for Industrial Injuries and Diseases

ARTICLE 19

(1) 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 for benefit in respect of an industrial accident or an industrial disease contracted during that employment, as if the accident had occurred or the disease had been contracted in the territory of the latter Party.

(2) Where a person sustains an industrial accident after he leaves the territory of one Party to go in the course of his employment to the territory of the other Party but before he arrives in the latter territory, then, for the purpose of any claim for benefit in respect of that accident:

(a) the accident shall be treated as if it had occurred in the territory of the Party whose legislation applies to him at the time the accident occurred; and

(b) his absence from the territory of that Party shall be disregarded in determining whether his employment was as an employed person under that legislation.

(3) Where a person would be entitled to benefit in respect of incapacity for work as the result of an industrial accident or disease under the legislation of one Party if he were in the territory of that Party he shall be entitled to that benefit while he is in the territory of the other Party if:

(a) he is temporarily resident in the territory of the latter Party; or

(b) having become entitled to such benefit, he is authorised by the competent institution to return to the territory of the Party where he resides or to transfer his residence to the territory of the other Party; or

(c) he is authorised by the competent institution of the former Party to go to the territory of the latter Party to receive there the treatment appropriate to his condition.

The authorisation required in accordance with sub-paragraph *(b)* of this paragraph may be refused only if it is established that movement of the person concerned would be prejudicial to his state of health or the receipt of medical treatment.

ARTICLE 20

(1) Where a person has sustained an industrial injury or contracted an industrial disease, in respect of which the legislation of one Party applies, and later sustains an industrial injury or contracts an industrial disease in respect of which the legislation of the other Party applies, then for the purpose of determining the degree of his disablement under the legislation of the latter Party, account shall be taken of the former injury or disease as if the legislation of the latter Party applied to it.

(2) Where a person contracts an industrial disease, after having been employed in the territory of only one Party in occupations to which, under the legislation of that Party, the disease may be attributed, the legislation of that Party shall apply in his case, even if the disease is first diagnosed in the territory of the other Party. This shall apply also in relation to any aggravation of the disease, provided that the person has not in the meantime been further exposed to the same risk in the territory of the latter Party.

(3) Where a person contracts an industrial disease, after having been employed in the territories of both Parties in an occupation to which the disease may be attributed under the legislation of both Parties, and he would be entitled to receive benefit in respect of that disease under the legislation of both Parties, whether by virtue of this Convention or otherwise, the benefit shall be payable only under the legislation of the Party in whose territory he was last employed in that occupation before the disease was diagnosed.

(4) Where a person has suffered an aggravation of an industrial disease for which benefit has been paid in accordance with the provisions of paragraphs (2) and (3) of this Article, the following provisions shall apply:

(a) if the person has not had further employment in occupations to which the disease or the aggravation may be attributed, or has had such employment only in the territory of the Party under whose legislation benefit has been paid, any additional benefit to which he may become entitled as a result of such aggravation shall be payable only under that legislation;

(b) if the person makes a claim under the legislation of the Party in whose territory he is employed on the grounds that he has suffered an aggravation of the disease while he was employed in the territory of that Party in occupations to which, under the legislation of that Party, the aggravation may be attributed, the competent institution of that Party shall be liable to pay benefit only in respect of the aggravation as determined under the legislation of that Party.

ARTICLE 21

Where, but for the provisions of this Article and subject to the provisions of paragraph (4)*(b)* of Article 20 of this Convention, a person would have been entitled to any benefit payable in respect of an industrial injury or disease under the legislation of both Parties, that benefit shall be granted exclusively under the legislation of the territory in which the person was last employed.

Section 6

Child Benefit

ARTICLE 22

(1) Where a person is resident 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 or a spouse residing with him, shall be treated, for the purpose of any claim for child benefit under the latter Party's legislation:

(a) as if he were present or resident, as the case may be, in the territory of the latter Party; and

(b) as if any child of his family or any child for whom he is responsible were present or resident, as the case may be, in the territory of the latter Party, if he is present or resident, as the case may be, in the territory of the former Party.

(2) For the purpose of determining entitlement to child benefit under the legislation of the United Kingdom and subject to the provisions of paragraph (1) of this Article any period of presence completed by a person in the territory of Finland, shall be treated as if it were a period of presence completed by that person in the territory of the United Kingdom.

(3) Where, but for the provisions of this paragraph child benefit would be payable under the legislation of both Parties for the same period in respect of the same child, whether by virtue of this Convention or otherwise, child benefit shall be paid only under the legislation of the Party in whose territory the child concerned is ordinarily resident.

Section 7

Recovery of Advance Payments and Overpayments of Benefit

ARTICLE 23

Where a competent institution of one Party has made a payment of any benefit for any period, any arrears of a corresponding benefit which becomes payable for the same period under the legislation of the other Party may be withheld, provided that the amount so withheld shall not exceed the amount of the payment made by the former Party. Where a competent institution of one Party has overpaid benefit for any period for which the competent institution of the other Party afterwards becomes liable to pay a corresponding benefit, the overpayment shall be regarded, for the purposes of the first sentence of this paragraph, as an advance payment.

PART IV

Miscellaneous Provisions

ARTICLE 24

(1) The competent authorities of the two Parties shall establish the administrative measures necessary for the application of this Convention.

(2) The competent authorities of the two Parties shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Convention or about changes in their national legislation in so far as these changes affect the application of the provisions of this Convention.

(3) The competent authorities, insurance authorities, or competent institutions of the two Parties may, for the purpose of applying the provisions of this Convention, correspond directly with one another, or with any person affected by this Convention, or with his legal representative.

ARTICLE 25

(1) The competent authorities of the two Parties shall assist one another on any matter relating to the application of this Convention as if the matter were one affecting the application of their own legislation. This assistance shall be free of charge.

(2) Where any benefit is payable under the legislation of one Party to a person in the territory of the other Party, the payment may be made by the competent institution of the latter Party, at the request of the competent institution of the former Party.

(3) Where a person who is in the territory of one Party has claimed benefit under the legislation of the other Party and a medical examination is necessary, the competent institution of the former Party, at the request of the competent institution of the latter Party, shall arrange for and meet the cost of this examination.

ARTICLE 26

(1) Where the legislation of one Party provides that any certificate or other document which is submitted under the legislation of that Party shall be exempt, wholly or partly, from any taxes, legal dues, consular fees or administrative charges, this exemption shall apply to any certificate or other document which is submitted under the legislation of the other Party or under the provisions of this Convention.

(2) All statements, documents and certificates of any kind required to be produced for the purposes of this Convention shall be exempt from authentication by diplomatic or consular authorities.

ARTICLE 27

Where any certificate, document or written statement of any kind is submitted to a competent authority of one Party, it shall not be rejected on the ground that it is written in the official language of the other Party.

ARTICLE 28

(1) Any claim, notice or appeal which should, for the purposes of the legislation of one Party, have been submitted within a prescribed period to the competent authority of that Party, shall be treated as if it has been submitted to that authority, if it is submitted within the same period to the competent authority of the other Party.

(2) Any claim for benefit submitted under the legislation of one Party shall be deemed to be a claim for the corresponding benefit under the legislation of the other Party in so far as this corresponding benefit is payable in accordance with the provisions of this Convention.

(3) Any document submitted under the legislation of Finland may, where appropriate, be treated as a notice of retirement given under the legislation of the territory of the United Kingdom.

(4) In any case to which the provisions of paragraph (1), (2) or (3) of this Article apply, the authority to which the claim, notice, appeal or document has been submitted shall transmit it without delay to the insurance authority of the other Party.

ARTICLE 29

(1) Payment of any benefit in accordance with the provisions of this Convention 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.

(2) Where the competent institution of one Party has made a payment of benefit on behalf of the competent institution of the other Party in accordance with the provisions of paragraph (2) of Article 25 of this Convention any reimbursement of the amounts paid by the former competent institution shall be in the currency of the latter Party.

(3) Any remittance to be made in accordance with the provisions of this Convention shall be made in accordance with any agreement binding the two Parties at the time when such remittance is made.

ARTICLE 30

A person shall not be entitled, whether by virtue of this Convention or otherwise, to sickness benefit, invalidity pension or maternity allowance under the legislation of the territory of the United Kingdom for any period during which he is entitled to a full daily allowance in respect of an industrial accident or disease under the legislation of Finland.

ARTICLE 31

(1) Any dispute about the interpretation or application of this Convention shall be resolved through agreement between the competent authorities of each Party.

(2) If any such dispute cannot be resolved in this manner, it shall be submitted, at the request of either Party, to an arbitration tribunal which shall be composed in the following manner:

(a) each Party shall appoint a referee within one month from receipt of the demand for arbitration. The two referees shall appoint, from the nationals of a third country, a third referee within two months from the date on which the Party which was the last to appoint its referee has notified the other Party of the appointment;

(b) if within the prescribed period either Party should fail to appoint a referee, the other Party may request the President of the International Court of Justice to make the appointment. A similar procedure shall be adopted at the request of either Party if the two referees cannot agree on the appointment of the third referee.

(3) The decision of the arbitration tribunal shall be by majority vote. Its decision shall be binding on both Parties. Each Party shall bear the expenses of the referee appointed by it. The remaining costs shall be borne equally by the two Parties. The arbitration tribunal shall determine its rules of procedure.

PART V

Transitional and Final Provisions

ARTICLE 32

(1) Upon the entry into force of this Convention the Convention signed at Helsinki on 28 July 1959 shall be terminated, and shall be replaced by this Convention.

(2) Any right to benefit acquired by a person in accordance with the provisions of the Convention signed at Helsinki on 28 July 1959 shall be maintained, and any rights in course of acquisition under that Convention at the date of the entry into force of this Convention shall be settled in accordance with the provisions of this Convention.

(3) Benefit, other than lump sum payments, shall be payable in accordance with the provisions of this Convention in respect of events which happened before the date of its entry into force except that an accident which occurred or a disease which developed before that date shall not, solely by virtue of this Convention, be treated as an industrial accident or disease if it would not have been so treated under any legislation or Convention having effect at the time of its occurrence or development. For the purpose of determining claims in accordance with the provisions of this Convention, account shall be taken of insurance periods and periods of residence, employment or presence, completed before the date of its entry into force.

(4) Paragraph (3) of this Article shall not confer any right to receive payment of benefit for any period before the date of the entry into force of this Convention.

(5) For the purpose of applying the first sentence of paragraph (3) of this Article:

(a) any right to benefit acquired by a person in accordance with the provisions of the Convention signed at Helsinki on 28 July 1959 may, at the request of the person concerned, be determined afresh in accordance with the provisions of this Convention from the date of entry into force of this Convention, provided that the request has been made within two years after that date;

(b) where the request for the benefit to be determined afresh is made more than two years after the date of entry into force of this Convention payment shall be made from the date determined under the legislation concerned without the application of the present Convention.

ARTICLE 33

This Convention shall be ratified and the instruments of ratification shall be exchanged in Helsinki as soon as possible. This Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

ARTICLE 34

This Convention shall remain in force for an indefinite period. Either Party may denounce it by giving six months' notice in writing to the other.

ARTICLE 35

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

In witness whereof the undersigned, duly authorised by their respective Governments, have signed the Convention.

Done in duplicate at London this 12th day of December 1978, in the English and Finnish languages, both texts being equally authoritative.

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

FRANK JUDD

For the Government of the Republic of Finland:

PIRKKO TYÖLÄJÄRVI

SCHEDULE 2

PROTOCOL CONCERNING HEALTH CARE AND CO-OPERATION IN THE FIELD OF MEDICINE AND PUBLIC HEALTH

At the time of signing the Convention on Social Security concluded this day between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Finland, hereinafter referred to as "the Convention", the undersigned, duly authorised thereto by their respective Governments, have agreed as follows:

ARTICLE 1

For the purpose of the present Protocol:

1. "medical treatment" means, in relation to the United Kingdom services provided in accordance with the National Health Service legislation in force in the United Kingdom (and the Isle of Man) during the period of validity of this Protocol, and, in relation to Finland, medical services provided either under the legislation concerning general sickness insurance or in accordance with the general hospital and public health legislation;

2. "nationals" means:

(a) in relation to the United Kingdom, all British subjects and British protected persons who are recognised by Her Britannic Majesty's Government in the United Kingdom as their nationals, provided in each case they are ordinarily resident in the territory of the United Kingdom to which the Convention applies;

(b) in relation to the Republic of Finland, all persons who in accordance with the laws of the Republic of Finland are citizens of the Republic of Finland, and who are ordinarily resident there.

3. All other terms and expressions have the meaning assigned to them in the Convention.

ARTICLE 2

1. When a national of either Contracting Party needs immediate medical treatment during his temporary stay in the territory of the other Party, he shall be entitled, on production of a valid passport, to receive the necessary medical treatment in the territory of that Party under the same conditions, including payment of charges normally met by nationals, as a person ordinarily resident in the territory of that Party.

2. The provisions of paragraph 1 shall not apply to nationals of the one country who go to the other country for the specific purpose of obtaining medical treatment.

ARTICLE 3

The Contracting Parties agree to have a separate memorandum between the Scottish Home and Health Department of the United Kingdom and the Ministry of Social Affairs and Health of Finland, concerning co-operation in the field of medicine and public health.

ARTICLE 4

1. The Department of Health and Social Security and the Scottish Home and Health Department of the United Kingdom and the Ministry of Social Affairs and Health of Finland shall be responsible for the proper execution of this Protocol.

2. The Contracting Parties shall send to each other as soon as possible details of any changes in laws or regulations operating in their respective territories which may significantly affect the nature and scope of services provided under Article 2.

ARTICLE 5

This Protocol shall form an integral part of the Convention.

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

Done in duplicate at London this 12th day of December 1978, in the English and Finnish languages, both texts being equally authoritative.

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

FRANK JUDD

For the Government of the Republic of Finland:

PIRKKO TYÖLÄJÄRVI

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which comes into operation on the day on which it is made, makes provision for the modification of the Social Security Act 1975, and that part of the Child Benefit Act 1975 which relates to child benefit, so as to give effect to the Convention on social security (set out, as amended, in Schedule 1) made between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Finland on the 12th December 1978, as amended by two further protocols made on the 21st March 1980 and on the 24th January 1983 respectively, and the Protocol concerning health care which is set out in Schedule 2 hereto.

The Convention relates to reciprocity in contributions, sickness and maternity benefit and invalidity pension, unemployment benefit, old age pension and widow's benefit, benefits for industrial injuries and diseases and child benefit.

SI 1984/125
ISBN 0-11-046125-8

