STATUTORY INSTRUMENTS

1972 No. 1586

SOCIAL SECURITY

The Family Allowances, National Insurance and Industrial Injuries (Austria) Order 1972

Made - - - 23rd October 1972

At the Court at Windsor Castle, the 23rd day of October 1972

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Vienna on 18th June 1971 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 Austria (which Convention is set out in Schedule 1 to this Order and is hereinafter referred to as "the Convention") and a Protocol supplementing the Convention (which Protocol is set out in Schedule 2 to this Order and is hereinafter referred to as "the Protocol") were signed on behalf of those Governments:

And Whereas by Article 45 of the said 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 Protocol it is provided that the 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 10th August 1972, and accordingly the Convention and the Protocol entered into force on 1st October 1972;

And Whereas by section 105(1) of the National Insurance Act 1965(**a**), as extended by section 22(1) of the Family Allowances Act 1965(**b**), and section 84(1) of the National Insurance (Industrial Injuries) Act 1965(**c**), it is provided that Her Majesty may, by Order in Council, make provision for modifying or adapting the said Acts of 1965 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 105(1), as so extended, and the said section 84(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:—

Citation and interpretation

1.—(1) This Order may be cited as the Family Allowances, National Insurance and Industrial Injuries (Austria) Order 1972.

(**a**) 1965 c. 51. (**b**) 1965 c. 53.
(**c**) 1965 c. 52.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply in relation to this Order as if this Order were an Act of Parliament.

Modification of Acts

2. The provisions contained in the Convention and the Protocol shall have full force and effect, so far as the same relate to England, Wales and Scotland and provide for reciprocity with the Government of the Republic of Austria in any matters specified in either section 105(1) of the National Insurance Act 1965, as extended by section 22(1) of the Family Allowances Act 1965, or section 84(1) of the National Insurance (Industrial Injuries) Act 1965; and the Family Allowances Acts 1965 to 1969, the National Insurance Acts 1965 to 1972 and the National Insurance (Industrial Injuries) Acts 1965 to 1972 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

W. G. Agnew.

SCHEDULE 1

Convention on Social Security Between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as "Her Britannic Majesty") and the Federal President of the Republic of Austria;

Desirous of strengthening the ties between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria in the field of social security;

Have resolved to conclude a Convention and for that purpose have appointed as their Plenipotentiaries:

Her Britannic Majesty:

For the United Kingdom of Great Britain and Northern Ireland:

His Excellency Sir Peter Allix Wilkinson, K C M G, D S O, O B E, Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary at Vienna;

The Federal President of the Republic of Austria:

For the Republic of Austria:

Herrn Dr. Rudolf Kirchschläger,

Federal Minister for Foreign Affairs;

Who, having communicated to each other their full powers, found in good and due form, have agreed as follows:—

PART 1

General Provisions

Article 1

(1) For the purpose of present Convention:

(i) "the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and "Austria" means the Republic of Austria;

(a) 1889 c. 63.

(ii) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland, the Isle of Man, the Island of Jersey and the Islands of Guernsey, Alderney, Hern and Jethou, and, in relation to Austria, the territory of Austria;

(iii) "national" means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, or a person who is a British subject by virtue of Section 2, 13 or 16 of the British Nationality Act 1948, or the British Nationality Act 1965, or a British protected person within the meaning of the said Act of 1948, and, in relation to Austria, an Austrian national or a person having German as his mother tongue (Volksdeutscher) who is stateless or whose nationality has not been determined and who on 11 July, 1953, on 1 January, 1961 or on 27 November, 1961 has been resident, otherwise than temporarily, in the territory of Austria;

(iv) "legislation" means the legislation specified in Article 2 which is in force in the territory of one (or the other) High Contracting Party or in any part of that territory;

(v) "competent authority" means, in relation to the United Kingdom, the Secretary of State for Social Services, the Ministry of Health and Social Services for Northern Ireland, the Isle of Man Board of Social Services, the Social Security Committee of the States of Jersey or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Austria, the competent Federal ministers;

(vi) "insurance authority" means, in relation to the United Kingdom, the competent authority, and, in relation to Austria, the institution or authority competent for the application of the relevant legislation of Austria;

(vii) "competent insurance authority" means the insurance authority responsible under the applicable legislation for dealing with the matter in question;

(viii) "dependant" means, in relation to the United Kingdom, 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 United Kingdom, and, in relation to Austria, a dependant as defined in the legislation of Austria;

(ix) "insurance period" means a contribution period or equivalent period;

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

(xi) "equivalent period" means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of the United Kingdom, and, in relation to Austria, a period which is treated as equivalent to a contribution period;

(xii) "benefit" means any pension, allowance or other cash benefit provided under the legislation of one (or the other) High Contracting Party;

(xiii) "pension", "allowance" or "benefit" means a pension, allowance or benefit, including any increase thereof and any additional allowance payable therewith, other than the supplement payable under the legislation of Austria (Ausgleichszulage);

(xiv) "sickness benefit" means, in relation to the United Kingdom, sickness benefit payable under the legislation of the United Kingdom other than invalidity pension, and, in relation to Austria, benefit payable under the legislation of Austria in the case of incapacity for work due to illness;

(xv) "maternity benefit" means, in relation to the United Kingdom, maternity benefit payable under the legislation of the United Kingdom, and, in relation to Austria, cash benefit payable under the legislation of Austria in the case of maternity other than Karenzurlaubsgeld;

(xvi) "unemployment benefit" means unemployment benefit as defined in the legislation concerned other than Karenzurlaubsgeld under the legislation of Austria;

(xvii) "invalidity pension" means, in relation to the United Kingdom, any sickness benefit as defined in the legislation of the United Kingdom which becomes payable in any period of interruption of employment as defined in that legislation to a person who:

(*a*) has received such benefit for 312 days of that period while he was in the territory of either High Contracting Party and is, in the opinion of the insurance authority of the United Kingdom, likely to remain permanently incapable of work; or

(*b*) has received such benefit for 36 days of that period and is entitled to an invalidity pension under the legislation of Austria for those 36 days; or

(*c*) has become entitled while he is in Austria to an invalidity pension under the legislation of Austria;

and, in relation to Austria, a pension payable under the pension legislation of Austria for reduced working capacity or loss of earning capacity;

(xviii) "old age pension" means, in relation to the United Kingdom, a contributory old age pension or retirement pension payable under the legislation of the United Kingdom, and, in relation to Austria, benefit payable under the pensions insurance legislation of Austria in respect of the contingencies of old age;

(xix) "survivor's pension" means, in relation to the United Kingdom, widow's benefit, and, in relation to Austria, benefit payable under the pensions insurance legislation of Austria on the death of an insured person;

(xx) "widow's benefit" means, in relation to the United Kingdom, widow's allowance, widowed mother's allowance, widow's pension and widow's basic pension payable under the legislation of the United Kingdom;

(xxi) "family allowance" means a family allowance as defined in the legislation concerned;

(xxii) "gainfully occupied" means employed or self-employed;

(xxiii) "employed person" means a person who comes within the definition of an employed person or a person who is treated as such in the applicable legislation; "employment" means employment as an employed person and the words "employ" and "employer" refer to such employment;

(xxiv) "self-employed person" means a person who comes within the definition of a self-employed person or a person who is treated as such in the applicable legislation;

(xxv) "vessel or aircraft" means, in relation to the United Kingdom, a vessel or hovercraft registered in the territory of the United Kingdom or any other British ship or vessel of which the owner (or managing owner if there is more than one owner) or manager has his principal place of business in that territory, or an aircraft registered in that territory of which the owner (or managing owner if there is more than one owner) has his principal place of business in that territory, and, in relation to Austria, a ship flying the Austrian flag in accordance with the legislation of Austria or an aircraft registered in Austria.

(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 the present Convention shall apply:

(i) in relation to Austria, to the legislation concerning:

(*a*) sickness insurance other than the following special schemes:

(*aa*) the special scheme for the surviving dependants of persons killed in the war and of conscripts; and

(*bb*) the special scheme for war disabled ex-service men and conscripts undergoing occupational training;

(*b*) industrial injuries insurance other than industrial injuries insurance for war disabled ex-service men and conscripts undergoing occupational training;

(*c*) pensions insurance for wage earners, salaried employees and miners;

(*d*) pensions insurance for self-employed persons in commerce and industry;

(*e*) pensions insurance for self-employed persons in agriculture and forestry;

(*f*) unemployment insurance; and

(*g*) family allowances;

(ii) in relation to the United Kingdom, to:

(*a*) the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1948, and the legislation which was consolidated by those Acts or repealed by legislation consolidated by them;

(*b*) 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 1948;

(*c*) the Insular Insurance (Jersey) Law 1950;

(*d*) the Social Insurance (Guernsey) Law 1964; and

(*e*) the Family Allowances Act 1965, the Family Allowances Act (Northern Ireland) 1966, the Family Allowances (Isle of Man) Act 1946, the Family Allowances (Guernsey) Law 1950 and the Family Allowances (Jersey) Law 1951.

(2) Subject to the provisions of paragraph (5) of this Article, the Convention shall apply also to any legislation which supersedes, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The 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 High Contracting Parties make an agreement to that effect.

(4) Where, by virtue of an agreement between Austria and a third party, an insurance period, completed before 27 November, 1961 under the social insurance of that third party, is disregarded under that social insurance and is treated as an insurance period completed under the legislation of Austria, it shall be so treated for the purposes of the present Convention; and where, by virtue of such an agreement, an insurance period completed before that date under the legislation of Austria is disregarded under that legislation, it shall be disregarded for the purposes of the present Convention.

(5) Subject to the provisions of paragraph (4) of this Article, the 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.

ARTICLE 3

(1) Subject to the provisions of paragraph (2) of this Article, nationals of one High Contracting Party shall be treated in the same way as nationals of the other Party so far as concerns their rights and obligations under the legislation of the latter Party.

(2) Paragraph (1) of this Article shall not apply to:

(*a*) the provisions of any of the agreements mentioned in paragraph (4) of Article 2;

(*b*) the provisions of the Austrian Federal Act of 22 November, 1961 concerning entitlement to benefits and rights in course of acquisition in the field of pensions insurance and industrial injuries insurance for gainful occupations outside Austria as well as the provisions concerning the recognition of periods of self-employment completed outside the territory of Austria, but within the territory of the former Austro-Hungarian Monarchy;

(*c*) the legislation of Austria concerning the recognition of insurance periods completed under the pensions insurance of the former German Reich as well as legislation concerning the acceptance of liabilities arising from the industrial injuries insurance of the former German Reich;

(*d*) the legislation of Austria concerning the recognition of periods of war service and periods equivalent to such periods;

(*e*) the legislation of Austria concerning the participation of insured persons and employers in the administration of insurance authorities and associations of such authorities, as well as the legislation concerning the participation of insured persons and employers in social security adjudication.

ARTICLE 4

Where a person would be entitled to an old age pension, survivor's pension, invalidity pension, sickness benefit, maternity benefit, death grant or any benefit payable in respect of an accident or an industrial injury or disease under the legislation of one High Contracting 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.

ARTICLE 5

(1) Subject to the provisions of paragraphs (2) and (3) of this Article, the legislation of Austria, in so far as it restricts the right to claim or receive a benefit where this right overlaps with other similar rights or with other income or disqualifies the person concerned while he is gainfully occupied or compulsorily insured, shall apply also to similar circumstances arising under the legislation of the United Kingdom or similar events happening in the territory of the United Kingdom. There shall be a corresponding effect, where a person is compulsorily insured under the legislation of the United Kingdom, in relation to that provision of the legislation of Austria which restricts the right to continued voluntary insurance.

(2) Where an insured person is not gainfully occupied, his insurance under the legislation of the United Kingdom shall not disqualify him from receiving an old age pension or a miner's old age pension under the legislation of Austria.

(3) For the purpose of a claim to a pension under Austrian pensions insurance for self-employed persons in commerce and industry, retirement in the territory of the United Kingdom from an occupation of a kind covered by that insurance shall have the same effect as the cancellation of a trading licence or the withdrawal from a partnership in Austria.

(4) For the purposes of those provisions of the legislation of the United Kingdom which concern overlapping benefits, any sickness benefit or widow's pension payable under the legislation of Austria shall be treated as if it were, respectively, sickness benefit or widow's benefit payable under the legislation of the United Kingdom. This shall not prevent a woman from receiving widow's benefit under the legislation of both High Contracting Parties in accordance with the provisions in Article 24.

PART II

PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE

ARTICLE 6

(1) Subject to the provisions of Article 7, 8, 9 and 10, if a person is gainfully occupied, his insurance liability shall be determined under the legislation of the High Contracting Party in whose territory he is so occupied.

(2) Where the application of paragraph (1) of this Article would involve insurance liability under the legislation of both Parties, the following provisions shall apply:

(*a*) where a person is employed in the territory of one Party and self-employed in the territory of the other Party, his insurance liability shall be determined under the legislation of the former Party; and

(*b*) where a person is self-employed in the territories of both Parties, his insurance liability shall be determined under the legislation of the Party in whose territory he is ordinarily resident.

(3) Where, but for the provisions of this paragraph, a person would be entitled to pay contributions voluntarily under the legislation of both Parties, he shall be entitled so to pay contributions only under the legislation of one Party.

ARTICLE 7

(1) Where a person, who is insured under the legislation of one High Contracting 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 until the end of the 24th complete calendar month of his employment in the territory of the latter Party.

(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 or road, whether for a third party or on its own account:

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

(*c*) if the 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 has no principal place of business or branch or permanent representative in that territory.

ARTICLE 8

(1) Subject to the provisions of paragraph (2) of this Article, where a person who is ordinarily resident in the territory of one High Contracting Party is employed on board any vessel or aircraft 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.

(2) Where a person, who is ordinarily resident in the territory of one Party and employed on board any vessel or aircraft of the other Party, is paid remuneration in respect of that employment by a person who has a place of business in the territory of the former Party and who is not the owner of the vessel or aircraft, the legislation of the former Party shall apply to him as if the vessel or aircraft were a vessel or aircraft of the former Party, and the person by whom the remuneration is paid shall be treated as the employer for the purposes of such legislation.

(3) Where a person to whom none of the provisions of paragraphs (1) and (2) of this Article applies is in the service of an air transport undertaking whose place of business is in the territory of one Party and is sent by that undertaking to the territory of the other Party, the legislation of the former Party shall apply to him.

ARTICLE 9

(1) Paragraph (1) of Article 6 and paragraph (1) of Article 7 shall not apply to diplomatic agents of Austria, members of the consular service of Austria or established members of the diplomatic service of the United Kingdom.

(2) Subject to the provisions of paragraph (1) of this Article, where a national of one High Contracting Party, who is in the Government service of that Party or in the service of any public corporation of that Party, is sent to the territory of the other Party, the legislation of the former Party shall apply to him.

(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 the present Convention or within three months of the beginning of his employment in the territory of the former Party, he may choose to be covered by the legislation of the latter 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 10

Where, but for the provisions of this Article, the legislation of one High Contracting Party would have applied to a gainfully occupied person in accordance with any of the provisions of Articles 6, 7, 8 and 9, the legislation of the other Party shall apply to him if the competent authority of the former Party decides that the legislation of that Party shall not apply to him, and the competent authority of the latter Party decides that the legislation of that Party shall apply to him, each authority having received a request to that effect submitted by the person concerned or, if he is an employed person, jointly by him and his employer, and having consulted the other authority and taken account of the social insurance interests of the person concerned.

ARTICLE 11

(1) Where in accordance with any of the provisions of Articles 6, 7, 8, 9 and 10, the legislation of one High Contracting Party applies to a person while he is gainfully employed in the territory of the other Party, it shall apply as if he were gainfully employed in the territory of the former Party.

(2) Where a person is employed in the territory of Austria and the legislation of the United Kingdom applies to him in accordance with any of the provisions of Articles 6, 7, 8, 9 and 10, he shall be treated under that legislation:

(*a*) for the purpose of any claim to sickness benefit or maternity benefit, as if he were in the United Kingdom; and

(*b*) for the purpose of any claim to benefit for an industrial accident occurring or an industrial disease contracted during the employment, as if the accident had occurred or the disease had been contracted in the United Kingdom.

(3) If an accident happens to an insured person 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 and the legislation of the United Kingdom applies to him in the latter territory or would, but for the accident, have applied to him, then, for the purpose of any claim to benefit under that legislation for that accident:

(*a*) the accident shall be treated as if it had happened in the United Kingdom; and

(*b*) his absence from the United Kingdom shall be disregarded in determining whether his employment was insurable under that legislation.

PART III

Special Provisions

Section 1

Sickness Benefit, Maternity Benefit and Death Grant

Article 12

(1) A person who, since his last arrival in the territory of one High Contracting Party, has completed a contribution period under the legislation of that Party, shall be treated, together with his dependants, for the purpose of any claim to sickness benefit or maternity benefit, as if any contribution period or equivalent period completed under the legislation of the other Party were a contribution period or equivalent period respectively completed under the legislation of the former Party.

(2) The provisions of paragraph (1) of this Article shall apply also to death grant, subject to such modifications as the differing nature of that benefit may require.

(3) For the purpose of this Article any period during which a person was entitled under the legislation of Austria to receive sickness benefit or unemployment benefit shall be treated under the legislation of the United Kingdom as if it were an equivalent period completed under the legislation of Austria.

Article 13

(1) If a person has begun a contribution period under the legislation of the United Kingdom since his last arrival in the territory of the United Kingdom and applies, on grounds of incapacity for work or confinement, for exception from liability to pay contributions for any period and for contributions to be credited to him for that period, then, for the purpose of that application:

(*a*) any period during which he was employed and insured under the legislation of Austria shall be treated as a period during which he was employed in the territory of the United Kingdom and for which he paid contributions as an employed person under the legislation of the United Kingdom;

(*b*) any period during which he was self-employed and insured under the legislation of Austria shall be treated as a period during which he was self-employed in the territory of the United Kingdom and for which he paid contributions as a self-employed person under the legislation of the United Kingdom;

(*c*) any period during which he was entitled under the legislation of Austria to receive unemployment benefit or sickness benefit shall be treated as if it were a period during which contributions were credited to him as an employed person under the legislation of the United Kingdom.

(2) For the purpose of determining the rate of sickness benefit to be paid under the legislation of the United Kingdom, the competent insurance authority of the United Kingdom may take account of any earnings on which the beneficiary has paid contributions under the legislation of Austria concerning sickness insurance.

ARTICLE 14

(1) Where a woman who is insured under the legislation of one High Contracting Party, or who is the wife or dependant of a person so insured, is confined in the territory of the other Party, she shall for the purpose of any right to receive maternity benefit under the legislation of the former Party, be treated as if she had been confined in the territory of the former Party.

(2) Where a woman would be entitled, by virtue of the present Convention or without the application of the Convention, to receive maternity benefits of the same kind under the legislation of both Parties, she shall not be entitled to receive both these benefits, but may choose which she will receive.

ARTICLE 15

(1) Where a person dies in the territory of one High Contracting Party, his death shall be treated, for the purpose of any claim to receive a death grant under the legislation of the other Party, as if it had occurred in the territory of the latter Party.

(2) Death grant shall not be payable under the legislation of both Parties in respect of the same death, unless the rights to such grants under the legislation of both Parties exist independently of the provisions of the present Convention.

(3) The following provisions shall determine the right to receive a death grant in cases where paragraph (2) of this Article prevents a double payment:

(*a*) if the death occurs in the territory of one Party, the right under the legislation of that Party shall be preserved and the right under the legislation of the other Party shall be extinguished;

(*b*) if the death does not occur in the territory of either Party, the right under the legislation of that one of the two Parties in whose territory the deceased was last resident before his death shall be preserved, and the right under the legislation of the other Party shall be extinguished.

Section 2

Benefits for Occupational Injuries and Diseases

ARTICLE 16

(1) If a person has sustained an industrial injury or contracted an industrial disease, to which the legislation of one High Contracting Party applies, and later sustains an industrial injury or contracts an industrial disease to 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) For the purpose of applying the provisions of paragraph (1) of this Article, the competent Austrian insurance authority shall determine its benefit according to the degree, as determined under the legislation of Austria, of the loss of earning capacity due to the accident or industrial disease. In such a case those provisions of the legislation of Austria which concern the determination of the total pension shall not be applied.

ARTICLE 17

(1) Where an insured person contracts an industrial disease after having been employed in the territories of both High Contracting Parties in occupations to which, under the legislation of both Parties, the disease may be attributed, there shall be applied in his case only the legislation of that Party in whose territory he was last employed in such occupations before the disease was diagnosed and, for this purpose, account shall be taken, if necessary, of any employment in such occupations in the territory of the other Party.

(2) Where a person who, under the legislation of one of the Parties, has received or is receiving benefit in respect of an industrial disease, makes a claim under the legislation of the other Party on the ground that he has suffered an aggravation of the disease while he was employed in the territory of the latter Party in occupations to which, under the legislation of that Party, the aggravation may be attributed, the insurance authority of the second Party shall be liable to pay benefit only in respect of the aggravation as determined under the legislation of that Party.

Section 3

Old Age Pensions, Invalidity Pensions and Survivors' Pensions

ARTICLE 18

(1) If a person has completed insurance periods under the legislation of both High Contracting Parties, then, for the purpose of determining whether he is entitled to an old age pension under the legislation of one Party, any insurance period which he has completed under the legislation of the other Party shall be treated as if it were an insurance period completed under the legislation of the former Party.

(2) Where the insurance periods which are taken into account under the legislation of one Party for the purpose of calculating the rate of pension are in aggregate less than twelve months, the insurance authority of that Party shall pay no old age pension, and the insurance authority of the other Party shall pay a pension without applying the provisions of sub-paragraph (*b*) of paragraph (1) of Article 19.

(3) The provisions of paragraph (1) of this Article shall not apply under the legislation of Austria to any claim to premature old age pension as defined in that legislation in the case of unemployment or lengthy insurance.

ARTICLE 19

(1) Where a person is entitled to receive an old age pension under the legislation of one High Contracting Party in accordance with the provisions of Article 18, the competent insurance authority of that Party shall calculate:

(*a*) first the amount of the pension which would have been due to the person under the legislation of that Party if all the insurance periods which have been completed by him under the legislation of the other Party and are taken into account for the calculation of a pension under the legislation of that Party, had been insurance periods completed by him under the legislation of the former Party; and then

(*b*) the amount of that part of such pension which bears the same relation to the whole as the total of the insurance periods completed by him under the legislation of the former Party bears to the total of all the insurance periods which have been completed by him under the legislation of both Parties and are taken into account in the calculation of the pensions under sub-paragraph (*a*) of this paragraph.

(2) The amount determined in accordance with sub-paragraph (*b*) of paragraph (1) of this Article shall be increased where appropriate:

(*a*) under the legislation of Austria, by the amount of any increments for contributions to supplementary insurance, miner's supplementary benefit, the allowance payable to a helpless person, or supplement (Ausgleichszulage); or

(*b*) by any graduated retirement benefit payable under the legislation of the United Kingdom;

and the amount, so increased, shall be the pension actually due to the person concerned from the competent insurance authority.

(3) For the purpose of applying the provisions of paragraph (1) of this Article, contribution periods and equivalent periods shall be taken into account as follows:

(*a*) where a period of compulsory insurance completed under the legislation of one Party coincides with a period of voluntary insurance completed under the legislation of the other Party, only the period of compulsory insurance shall be taken into account;

(*b*) where a 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;

(*c*) 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 of the Party in whose territory the person concerned was last insurably employed before that period or, if he was not previously so employed in the territory of either Party, only of the equivalent period completed under the legislation of the Party in whose territory he was first so employed after that period; and

(*d*) where, in accordance with sub-paragraph (*a*) of this paragraph, voluntary contributions paid under Austrian pensions insurance are not taken into account, they shall be treated as contributions paid for Austrian supplementary insurance.

ARTICLE 20

(1) If, in any case where the provisions of Article 18 have been applied, the person concerned satisfies the conditions for receiving an old age pension under the legislation of one High Contracting Party, but would not have satisfied those conditions without the help of those provisions and does not satisfy the conditions for receiving an old age pension under the legislation of the other Party, the pension payable to him under the legislation of the former Party shall be determined in accordance with the provisions of Article 19.

(2) If, in any case where the provisions of Article 18 have been applied, the person concerned satisfies the conditions for receiving an old age pension under the legislation of one Party and would have satisfied those conditions even without the help of those provisions, but does not satisfy the condition for receiving an old age pension under the legislation of the other Party, the pension payable to him under the legislation of the former Party shall be determined under that legislation without regard to the provisions of Article 19.

(3) Where a person who has received an old age pension under the legislation of one Party in accordance with the provisions of paragraph (1) or (2) of this Article afterwards satisfies the conditions for receiving an old age pension under the legislation of the other Party, the pension due to him under the legislation of the former Party shall be determined afresh notwithstanding any provision of that legislation which precludes such a revised determination, and the new rate of pension shall have effect from the date on which a pension becomes payable under the legislation of the latter Party.

ARTICLE 21

(1) Where, in accordance with the provisions of Articles 18 and 19, a person is entitled to receive old age pensions under the legislation of both High Contracting Parties, and the sum of these two pensions is less than the old age pension that would have been payable to him under the legislation of one Party if those provisions had not been applied in his case, the amount by which that sum is less than that old age pension shall be added by the competent insurance authority of that Party to the pension which that authority is liable to pay in accordance with the provisions of Article 19.

(2) Any amount of additional pension which is payable in accordance with the provisions of paragraph (1) of this Article shall be determined afresh when there is a change in the rate of pension payable under the legislation of either Party not due to a general increase of pension rates or a change of more than 10 per cent in the rate at which the currency of one Party is converted into the currency of the other.

ARTICLE 22

The Austrian insurance authorities shall apply Articles 18 and 19 in accordance with the following principles:

(1) For the purpose of determining the pensions insurance scheme under which a claim to benefit should be made and the competent authority responsible for paying benefit, British insurance periods shall be taken into account according to the nature of the occupation followed during those periods. A British insurance period during which no gainful occupation was followed shall be treated according to the nature of the last occupation followed before the period. Where the nature of the occupation cannot be established or where during the whole insurance period no occupation was followed, that period shall be treated as if it had been completed in an occupation for which the Pensions Insurance Institute for Wage Earners was responsible. A period of entitlement to old age pension or invalidity pension under British pensions legislation shall be treated according to the nature of the occupation followed immediately before the contingency giving rise to the claim. For the purpose of determining entitlement to benefit under the miners' pension insurance, a British insurance period during which a person was gainfully occupied shall be taken into account only if it was completed in certain specified industries or if the insured person was within a specified class of employed persons. Such a list shall be drawn up by the competent authorities of the two High Contracting Parties having regard to Section 15 of the Federal Act of 9 September, 1955 concerning general social insurance. These rules shall apply only if a pension is to be paid by the pensions insurance institution concerned.

(2) Where an Austrian equivalent period is taken into account if it is preceded or followed by an insurance period, a British insurance period shall be treated as if it had been an Austrian insurance period.

(3) A British insurance period shall not be taken into account for the purpose of aggregation of insurance periods under the legislation of Austria where the widow of a self-employed person continues her husband's trade or business.

(4) A period completed in the United Kingdom which corresponds with a neutral period as defined in the Austrian Act which is mentioned in paragraph (1) of this Article or with a period which, in pensions insurance for self-employed persons, extends the period within which the qualifying period must be completed, shall be taken into account as if it were such a period.

(5) Any insurance periods which are taken into account in accordance with the Act specified in sub-paragraph (*b*) of paragraph (2) of Article 3 and any equivalent periods which are taken into account under the legislation of Austria in calculating a pension shall be treated as if they were insurance periods completed under the legislation of Austria.

(6) The provisions of Articles 18 and 19 shall not apply to a claim to the bonus provided under Austrian miners' pension insurance.

(7) In the application of sub-paragraph (*a*) of paragraph (1) of Article 19 the following shall apply:

(i) Subject to the provisions of paragraph (3) of Article 19 overlapping periods of insurance shall be taken into account in full measure.

(ii) In the determination of the total amount of benefit, a British insurance period which is taken into account for a British pension shall be included without regard to those provisions of the legislation of Austria which concern the recognition of insurance periods.

(iii) Contributions paid in arrears for the purpose of acquiring equivalent periods in Austrian pensions insurance shall not be treated as if they were contributions for supplementary insurance.

(iv) The earnings assessment on which the pension is calculated shall be determined solely with reference to periods completed under Austrian pensions insurance.

(v) Contributions for supplementary insurance and for miner's supplementary benefit shall be disregarded.

(vi) If, for the purpose of determining the earnings assessment, it is impossible to establish the earnings on which contributions were paid before 1 January, 1962, the daily wage rate applicable on 31 December, 1946 to a worker of the same class, multiplied by the revaluation coefficient in force at any given time under the legislation of Austria, subject to the appropriate contribution ceiling, shall be regarded as the earnings on which contributions were paid.

(vii) The legislation which concerns the reduction and suspension of pension shall be applied to the total benefit.

(8) In the application of sub-paragraph (*b*) of paragraph (1) of Article 19 the following shall apply:

(i) The pro rata temporis rate shall be calculated on the basis of all the insurance periods taken into account by the insurance authorities of both Parties even if the total of such periods exceeds the maximum number of insurance months allowed for the calculation of Austrian increments.

(ii) The allowance payable to a helpless person shall be calculated in accordance with the legislation of Austria and for this purpose the limits within which the allowance is payable shall be reduced in the same proportion as the pension. Where the allowance is payable at a fixed rate that allowance shall be reduced in the same proportion as the pension. Where however the person is entitled to a pension under the legislation of Austria without the application of Article 18 those limits or the fixed amount, as the case may be, shall not be reduced.

(9) Where under the legislation of Austria the award of benefits under miners' pension insurance depends upon the completion of insurance periods in the mining industry, only those British insurance periods shall be taken into account which were completed in an occupation of a nature specified in the fourth and fifth sentences of paragraph (1) of this Article. Where a claim to the miner's long service allowance or to the miner's pension for salaried workers depends upon the completion of certain specified insurance periods, only those British insurance periods shall be taken into account which were completed in occupations corresponding to occupations specified in Appendix 9 to the Act referred to in paragraph (1) and subject to the conditions set out therein. For the calculation of that part of the miner's long service allowance which the Austrian Miners' Pension Insurance Institute is required to pay, the provisions of paragraph (1) of Article 19 shall be applied, provided that only the periods to be taken into account in accordance with the second sentence of this paragraph shall be included.

(10) British insurance periods shall not be taken into account when calculating the grant paid, where appropriate, to the survivors of an insured person.

(11) The additional special payments (Sonderzahlungen) under Austrian pensions insurance shall be at a rate calculated in accordance with Article 19; Article 21 shall apply if it is appropriate.

ARTICLE 23

For the purpose of applying the provisions of Articles 18 and 19 to the legislation of the United Kingdom:

(i) where an insurance period completed under the legislation of Austria is treated as if it had been completed under the legislation of the United Kingdom, it shall be so treated as a contribution period if it was a contribution period or as an equivalent period if it was an equivalent period;

(ii) no account shall be taken of any graduated contributions paid under the legislation of the United Kingdom or, subject to the provisions of paragraph (2) of Article 19, of any graduated retirement benefit payable under that legislation;

(iii) where a person has reached pensionable age, as prescribed in his case under the legislation of the United Kingdom, no account shall be taken under that legislation of any subsequent insurance period which he completes under the legislation of Austria; and

(iv) in those cases under the legislation of the United Kingdom where the person concerned is:

(*a*) a woman claiming an old age pension 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 an old age pension by virtue of her own insurance, her marriage having been terminated by the death of her husband or otherwise;

any reference to an insurance period completed by a person shall be construed, for the purpose of ascertaining her husband's yearly average of contributions paid or credited, as including a reference to an insurance period completed by her husband.

ARTICLE 24

(1) Subject to such changes as the differing nature of the benefit may require and subject to the provisions of this Article, the provisions of Articles 18, 19, 20, 21, 22 and 23 concerning old age pensions shall apply to claims to invalidity pensions or survivors' pensions under the legislation of one (or the other) High Contracting Party and to claims to guardians' allowances under the legislation of the United Kingdom.

(2) The provisions of paragraph (2) of Article 18 shall not apply in any case where, even without the application of paragraph (1) of this Article, an invalidity pension or survivor's pension is payable under the legislation of Austria although the insurance periods completed under that legislation by the insured person concerned are in aggregate less than 12 months.

(3) On any claim to invalidity pension, every insurance period which has been completed by the person concerned before the onset of invalidity and would be taken into account on a claim to old age pension shall be taken into account for the purpose of the calculation specified in paragraph (1) of Article 19, and no insurance period subsequently completed under the legislation of the United Kingdom shall be taken into account.

(4) If, for any period, a person has received, under the legislation of the United Kingdom, an invalidity pension or survivor's pension which has been calculated in accordance with the provisions of Article 19, as applied by paragraph (1) of this Article, and he afterwards claims an old age pension under that legislation, then he shall be treated, for the purpose of that claim, as if contributions had been credited to him under that legislation only for the part of that period which bears the same relation to the whole as the relation determined, in sub-paragraph (*b*) of paragraph (1) of Article 19, on his claim to invalidity pension or survivor's pension under that legislation.

(5) 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 Austria, provided that the deceased parent, by virtue of whose insurance the allowance is payable, had completed, under the legislation of the two Parties, insurance periods which are in aggregate not less than 60 months.

(6) Where a woman in receipt of widow's benefit under the legislation of the United Kingdom qualifies for an old age pension under that legislation, the widow's benefit payable under the legislation of Austria shall not be determined afresh.

Section 4

Family Allowances

ARTICLE 25

(1) Where a person is gainfully occupied in the territory of one High Contracting Party and, together with his children, is ordinarily resident in the territory of the other Party, the legislation of the latter Party concerning family allowances shall apply to him.

(2) Where, under the legislation of one Party, the right to family allowance is conditional on the completion of a period of presence in the territory of that Party, any period during which a person was present in the territory of the other Party shall be treated as if it were a period of presence in the territory of the former Party.

(3) For the purpose of any claim to family allowance under the legislation of one Party, a person whose place of birth is in the territory of the other Party, shall be treated as if his place of birth were in the territory of the former Party.

(4) Where a person is employed in the territory of one Party and in accordance with any of the provisions of Articles 7, 8, 9 and 10, the legislation of the other Party applies to him, he shall be treated, for the purpose of any claim to family allowances, as if he were in the territory of that Party and employed there; and, if his children are in the territory of the former Party, they shall be treated as if they were in the territory of the latter Party.

ARTICLE 26

Where, but for the provisions of this Article, family allowances would be payable under the legislation of both High Contracting Parties for the same children, family allowances shall be paid only under the legislation of the Party in whose territory the children concerned are ordinarily resident.

ARTICLE 27

For the purpose of applying the provisions of this Section, persons for whom family allowances are payable under the legislation which is being applied shall be regarded as children.

Section 5

Unemployment Insurance

ARTICLE 28

(1) If an employed person, since his last arrival in the territory of Austria, has been employed in employment which is subject to unemployment insurance, then, for the purpose of any claim to unemployment benefit, any contribution period completed under the legislation of the United Kingdom shall be treated as if it were a contribution period completed under the legislation of Austria.

(2) The application of paragraph (1) of this Article shall be subject to the condition that the employed person, in the last 12 months before his claim to benefit, has been employed for an aggregate of 13 weeks in employment which is subject to unemployment insurance, but this restriction shall not apply if the employed person is not to blame for the termination of his employment.

(3) The decision on any question whether an insured person is to blame for the termination of his employment shall be given in accordance with the legislation of Austria.

(4) A contribution period completed under the legislation of the United Kingdom shall be treated in accordance with the provisions of paragraph (1) as a contribution period completed under the legislation of Austria for the purpose of satisfying the qualifying condition under that legislation only in so far as it has not been taken into account for the purpose of any payment of unemployment benefit under the legislation of the United Kingdom.

(5) If a person, since his last arrival in the territory of the United Kingdom, has completed a contribution period under the legislation of the United Kingdom, then, for the purpose of any claim to receive unemployment benefit under that legislation:

(*a*) any period of his employment subject to unemployment insurance under the legislation of Austria shall be treated as if it were a period during which he had paid contributions as an employed person under the legislation of the United Kingdom;

(*b*) any period during which he was entitled under the legislation of Austria to receive unemployment benefit or sickness benefit shall be treated as if it were a period during which contributions were credited to him as an employed person under the legislation of the United Kingdom; and

(*c*) any period during which he was resident in the territory of Austria shall be treated as if it were a period during which he was resident in the territory of the United Kingdom.

(6) If an employed person who has been employed in the territory of Austria goes to the territory of the United Kingdom and becomes employed there as an employed person and subsequently applies under that legislation for exemption from liability to pay contributions and for contributions to be credited to him on grounds of unemployment, then, for the purpose of that application:

(*a*) any period of employment completed by him which is subject to compulsory insurance under the legislation of Austria shall be treated as if it were a period during which he was employed as an employed person and had paid contributions as an employed person under the legislation of the United Kingdom; and

(*b*) any period during which he was entitled under the legislation of Austria to receive unemployment benefit or sickness benefit shall be treated as if it were a period during which contributions were credited to him as an employed person under the legislation of the United Kingdom.

ARTICLE 29

(1) Where a national of either High Contracting Party who is ordinarily resident in the territory of one Party and has been employed in the territory of the other Party in employment which is subject to compulsory insurance under the legislation of that Party, becomes unemployed there and returns to the territory of the former Party, the provisions of Article 28 of the present Convention shall apply to him even if he has not become employed in the territory of the former Party.

(2) An employed person shall not be disqualified for receiving unemployment benefit under the legislation of the Party in whose territory he is ordinarily resident solely on the ground that he has voluntarily left employment in the territory of the other Party in order to return to the territory of the former Party.

ARTICLE 30

Where a person claims unemployment benefit under the legislation of one High Contracting Party by virtue of the provisions of Articles 28 and 29:

(*a*) any period during which he received such benefit under the legislation of the other Party during the last 12 months before the day on which his claim is made shall be taken into account as if it were a period during which he had received such benefit under the legislation of the former Party; and

(*b*) subject to the provisions of paragraph (2) of Article 29, if he has been disqualified for receiving benefit under the legislation of the latter Party, he shall be treated as if he had been so disqualified under the legislation of the former Party.

ARTICLE 31

(1) If under the legislation of Austria the rate of unemployment benefit depends on the rate of the insured person's earnings in his last employment, and any period of employment in the territory of the United Kingdom is taken into account for the purpose of assessing earnings, then the employed person's earnings for that period shall be based on his average earnings in his last 10 weeks of employment which was subject to Austrian unemployment insurance or, if he was paid by the month, on his earnings during the last three months. Where there is no collective agreement on wages, the basis shall be the local wage rate customary for a similar employment in his place of residence.

(2) For the purpose of determining the rate of unemployment benefit to be paid under the legislation of the United Kingdom, the competent insurance authority of the United Kingdom may take account of any earnings on which the beneficiary has paid contributions under the legislation of Austria concerning unemployment insurance.

PART IV

MISCELLANEOUS PROVISIONS

ARTICLE 32

(1) The competent authorities may, by means of an agreement, establish the administrative measures necessary for the application of the present Convention. Such agreement may be concluded before the entry into force of the Convention, but it shall not enter into force before the Convention enters into force.

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

(3) For the purpose of facilitating the implementation of the Convention, liaison offices shall be established.

In Austria the liaison offices shall be:

for sickness, industrial injuries and pensions insurance, the liaison office for social insurance abroad administered by the Main Association of Austrian Social Insurance Authorities in Vienna;

for family allowances, the Federal Ministry of Finance in Vienna;

for unemployment insurance, the Regional Employment Exchange for Vienna; and

in the United Kingdom the liaison offices shall be the competent authorities.

ARTICLE 33

(1) The competent authorities and insurance authorities of the two High Contracting Parties shall assist one another on any matter relating to the application of the present 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 an insurance authority of the latter Party, at the request of the competent insurance authority of the former Party.

ARTICLE 34

(1) Where the legislation of one High Contracting Party provides that any certificate or other document which is submitted under that legislation to a competent authority or insurance authority 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 to a competent authority or insurance authority of the latter Party.

(2) Any certificate, document or written statement of any kind which has to be submitted for the application of the present Convention shall not require authentication.

ARTICLE 35

Where a claim is submitted to a competent authority or insurance authority of one High Contracting Party, it shall not be rejected on the ground that it is written in the official language of the other Party.

ARTICLE 36

(1) Any notice or claim which should, for the purpose of a claim to benefit under the legislation of one High Contracting Party, have been submitted to an insurance authority of that Party, shall be treated as if it had been submitted to that authority, if it is submitted to an insurance authority of the other Party which is competent to deal with claims to the corresponding benefit of the latter Party.

(2) Any claim to benefit submitted under the legislation of one Party shall be deemed to be a claim to 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 Austria may, where appropriate, be treated as a notice of retirement given under the legislation 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 notice, claim or document has been submitted shall transmit it without delay to the competent insurance authority of the other Party.

ARTICLE 37

(1) Payment of any benefit in accordance with the provisions of the present Convention may be made in the currency of the High Contracting Party whose insurance authority makes the payment and any such payment shall constitute a full discharge of the obligation.

(2) Where an insurance authority has made a payment of benefit in accordance with the provisions of paragraph (2) of Article 33, any reimbursement shall be in the currency of the Party in whose territory the insurance authority has its principal place of business.

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

ARTICLE 38

(1) Any dispute about the interpretation or application of the present Convention shall be resolved through diplomatic channels.

(2) If any such dispute cannot be resolved in this manner, it shall be submitted, at the request of either High Contracting 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.

ARTICLE 39

(1) Where an insurance authority of one High Contracting Party has made an advance payment 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. Where an insurance authority of one Party has overpaid benefit for any period for which the insurance authority of the other Party afterwards becomes liable to pay a corresponding benefit, the overpayment shall be regarded, for the purpose of the first sentence of this paragraph, as an advance payment.

(2) Where a social assistance authority of one Party has paid assistance to a person for any period for which he afterwards becomes entitled to benefit under the legislation of the other Party, the competent insurance authority of the latter Party or the liaison office of that Party responsible for the payment shall, at the request of that social assistance authority and on behalf of that authority, withhold the amount paid by way of assistance from the arrears of benefit due to be paid for the same period, treating that amount as if it were an equal amount of assistance paid by a social assistance authority of the latter Party.

ARTICLE 40

(1) Where under the legislation of one High Contracting Party any benefit, other than family allowances, or any increase of benefit would be payable for a dependant if he were in the territory of that Party, it shall be paid while he is in the territory of the other Party.

(2) Where a person would be entitled, under the legislation of the United Kingdom, to receive widow's benefit or benefit in respect of a death due to an industrial injury or disease if a child were in the territory of the United Kingdom, or had been in that territory at the time when one of his parents died or at any other specified time, he shall be entitled to receive that benefit if the child is in the territory of Austria or was in that territory at that time.

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 41

(1) Benefit, other than lump sum payments, shall be payable in accordance with the provisions of the present Convention in respect of events which happened before the date of its entry into force. For the purpose of determining claims in accordance with the provisions of the Convention, account shall be taken of insurance periods completed before the date of its entry into force.

(2) Paragraph (1) 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 the Convention.

(3) In cases covered by the first sentence of paragraph (1) of this Article:

(*a*) any benefit which has been determined before the date of the entry into force of the Convention may, at the request of the person concerned, be determined afresh in accordance with the provisions of the Convention notwithstanding any provision of the legislation concerned which precludes such a revised determination, and payment shall be made from the date of entry into force of the Convention;

(*b*) any benefit to which a person becomes entitled solely by virtue of the Convention shall be determined at his request from the date of the entry into force of the Convention, provided that he makes the request within one year after that date; otherwise the benefit shall be paid from the date determined under the domestic legislation concerned.

ARTICLE 42

Where a person suffered loss of rights on political or religious grounds or by reason of descent as defined in paragraph (1) of section 500 of the Federal Act of 9 September, 1955 concerning general social insurance, sub-paragraph (3) of paragraph (1) of section 62 of the Federal Act of 18 December, 1957 concerning pensions insurance for self-employed persons in commerce and industry, sub-paragraph (3) of paragraph (1) of section 60 of the Federal Act of 18 December, 1957 concerning supplementary pensions insurance in agriculture and sub-paragraph (3) of paragraph (1) of section 56 of the Federal Act of 12 December, 1969 concerning pensions insurance of self-employed persons in agriculture and forestry, the provisions of sub-paragraph (*d*) of paragraph (2) of Article 3, paragraph (1) of Article 5, paragraph (3) of Article 6 and paragraph (1) of Article 18 of the present Convention shall not affect any rights to which he may be entitled under the legislation of Austria.

ARTICLE 43

The provisions of Articles 18 and 19 shall not apply, in relation to the United Kingdom, in any case where, within a period of ten years from the date of the entry into force of the present Convention, a person reaches pensionable age as prescribed in his case under the legislation of the United Kingdom and qualifies for an old age pension under that legislation solely by virtue of insurance periods completed under that legislation.

ARTICLE 44

The present Convention shall be ratified and the instruments of ratification shall be exchanged in London as soon as possible.

ARTICLE 45

The present 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 46

The present Convention shall remain in force for an indefinite period. Either High Contracting Party may denounce it by giving three months notice in writing to the other.

ARTICLE 47

In the event of the termination of this present Convention, 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.

In witness whereof the above-named Plenipotentiaries have signed the present Convention and affixed thereto their seals.

Done in duplicate at Vienna, this 18th day of June 1971, in the English and German languages, both texts being equally authoritative.

For Her Britannic Majesty:

(L.S.) PETER WILKINSON

For the Federal President of the Republic of Austria:

(L.S.) RUDOLF KIRCHSCHLÄGER

SCHEDULE 2

PROTOCOL CONCERNING BENEFITS IN KIND

At the time of signing the Convention on Social Security concluded this day between the United Kingdom of Great Britain and Northern Ireland and the Republic of Austria, hereinafter referred to as the "Convention", the Plenipotentiaries of the two High Contracting Parties have agreed as follows:

ARTICLE 1

Where a national of one High Contracting Party falls ill, meets with an accident or, for any other reason, is in urgent need of medical treatment when he is in the territory of the other Party, he shall be entitled to receive hospital treatment in that territory under the same conditions as a national of the latter Party who is ordinarily resident in the territory of that Party and insured under the legislation of that Party concerning sickness insurance.

ARTICLE 2

For the purpose of the present Protocol:

(i) "hospital treatment" means, in relation to Austria, hospital in-patient treatment provided under the Federal Act of 9 September, 1955 concerning general social insurance and, in relation to the United Kingdom, hospital in-patient treatment provided under the National Health Services of the United Kingdom, or by the States of Jersey or the States of Guernsey;

(ii) all other words have the meanings assigned to them in the Convention.

ARTICLE 3

For the purpose of applying Article 1 the benefits in kind shall be provided in the Republic of Austria by the Gebietskrankenkasse für Arbeiter und Angestellte competent for the place of residence of the person concerned.

ARTICLE 4

The competent authorities may determine by agreement the measures necessary for the application of the present Protocol. That agreement may be concluded before the entry into force of the present Protocol, but it shall not enter into force before the present Protocol enters into force.

ARTICLE 5

The present Protocol shall form an integral part of the Convention.

In witness whereof the Plenipotentiaries have signed the present Protocol and affixed thereto their seals.

Done in duplicate at Vienna, this 18th day of June 1971, in the English and German languages, both texts being equally authoritative.

For Her Britannic Majesty:

(L.S.) PETER WILKINSON

For the Federal President of the Republic of Austria:

(L.S.) RUDOLF KIRCHSCHLÄGER

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect in England, Wales and Scotland to the Convention and Protocol (set out in the Schedules) made between the Governments of the United Kingdom and Austria in so far as they relate to the matters for which provision is made by the Family Allowances Acts 1965 to 1969, the National Insurance Acts 1965 to 1972 and the National Insurance (Industrial Injuries) Acts 1965 to 1972.

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