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**STATES OF JERSEY**

**STATES GREFFE**

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**Report**

Negotiations between the United Kingdom and Japan have taken place over the past three years on an agreement seeking to avoid paying contributions to the two countries for the same employment. Such a “Double Contribution Convention” is unusual as it serves only to regulate the payment of contributions and contains no benefit provisions, which therefore remain subject to domestic legislation. The structure of the agreement follows the section of the model agreement that relates to contribution payments which has formed the basis of many agreements over the years. This is an important agreement for the United Kingdom and Japan; and Jersey, Guernsey and the Isle of Man have taken the opportunity to become party to this agreement. The States agreed in principle to Jersey becoming party to the agreement on 21st April 1998.

### **Explanatory Note**

The purpose of this Act is to make provision for modifying or adapting the Social Security (Jersey) Law 1974, as amended, in its application to cases affected by the Agreement on Social Security between the Government of the United Kingdom and the Government of Japan signed on 29th February 2000.

**Social Security (Jersey) Law 1974**

SOCIAL SECURITY (RECIPROCAL AGREEMENT WITH JAPAN) (JERSEY) ACT 200-

(Promulgated on the \_\_\_\_\_ day of \_\_\_\_\_ 200-)

**STATES OF JERSEY**

The \_\_\_\_\_ day of \_\_\_\_\_ 200-

**WHEREAS -**

**A.** an Agreement on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan (which Agreement is set out in the Schedule to this Act and is hereinafter called “the Agreement”) was signed on behalf of those Governments at Tokyo on the 29th day of February 2000;

**B.** by Article 13 of the Agreement it is provided that the Agreement shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective constitutional requirements necessary to give effect to the Agreement have been complied with;

**C.** by Article 48 of the Social Security (Jersey) Law 1974,<sup>[1]</sup> as amended, it is provided that the States may by Act make provision for modifying or adapting the Law in its application to cases affected by agreements with other governments providing for reciprocity in matters specified in that Article -

**NOW THEREFORE, THE STATES,** in pursuance of that Article and of all other powers enabling them in that behalf have made the following Act -

**1.**(1) The provisions of the Agreement shall have full force and effect so far as the same relate to the Bailiwick and provide for reciprocity with the Government of Japan in any matter referred to in that Article.

(2) The Social Security (Jersey) Law 1974,<sup>[2]</sup> as amended,<sup>[3]</sup> shall have effect subject to such modifications or adaptations as may be required for the purpose of giving effect to the provisions of the Agreement so far as they apply to the Bailiwick.

**2.** This Act may be cited as the Social Security (Reciprocal Agreement with Japan) (Jersey) Act 200-.

*SCHEDULE*

**Agreement between the United Kingdom of  
Great Britain and Northern Ireland and Japan  
on Social Security**

The United Kingdom of Great Britain and Northern Ireland and Japan,

Being resolved to foster progress in the field of social affairs by co-operating in the area of social security, in particular as regards compulsory coverage,

Have agreed as follows:

**ARTICLE 1**

1. For the purposes of this Agreement:

- (a) “United Kingdom” means Great Britain and Northern Ireland and, where the context requires, also the Isle of Man, Jersey and Guernsey and, similarly, references to “territory” in relation to the United Kingdom shall, where the context requires, mean also the Isle of Man, Jersey and Guernsey.
- (b) “Jersey” means the Island of Jersey;
- (c) “Guernsey” means the Islands of Guernsey, Alderney, Herm and Jethou;
- (d) “legislation” means,
  - (i) in relation to Japan, the laws and regulations of Japan concerning the pension systems specified in paragraph 1(a) of Article 2 except those promulgated for the implementation of other agreements or social security comparable with this Agreement, and
  - (ii) in relation to the United Kingdom, the Acts, Laws and Orders in Council, orders and regulations of the United Kingdom specified in paragraphs 1(b) and 2 of Article 2 and the orders and regulations made under them;
- (e) “the EEA Agreement” means the Agreement establishing the European Economic Area dated 2 May 1992 made between the European Community, its Member States and the Member States of the European Free Trade Association and any amendments or modifications thereto;
- (f) “compulsory coverage” means,
  - (i) in relation to Japan, liability for contributions under the legislation of Japan or exemption from liability for contributions by the legislation of Japan, and
  - (ii) in relation to the United Kingdom, liability for contributions as an employed or self-employed person under the legislation of the United Kingdom;
- (g) “competent authority” means,
  - (i) in relation to Japan, any of the Governmental organizations competent for the Japanese pension systems specified in paragraph 1(a) of Article 2, and
  - (ii) in relation to the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, the Department of Health and Social Security of the Isle of Man, the Employment and Social Security Committee of the States of Jersey or the Guernsey Social Security Authority as the case may require;
- (h) “competent institution” means, in relation to Japan, any of the insurance institutions, or any association thereof, responsible for the operation of the Japanese pension systems specified in paragraph 1(a) of Article 2;

2. For the purpose of this Agreement, any term not defined in this Agreement has the meanings assigned to it under

the respective legislation of either Party.

## ARTICLE 2

1. This Agreement shall apply,
  - (a) in relation to Japan, to the following Japanese pension systems:
    - (i) the National Pension;
    - (ii) the Employees' Pension Insurance;
    - (iii) the Mutual Aid Pension for National Public Officials;
    - (iv) the Mutual Aid Pension for Local Public Officials and Personnel of Similar Status;
    - (v) the Mutual Aid Pension for Private School Personnel; and
    - (vi) the Mutual Aid Pension for Agricultural, Forestry and Fishery Organization Personnel; and
  - (b) in relation to the United Kingdom, to:
    - (i) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992 and the Social Security (Consequential Provisions) Act 1992;
    - (ii) the Social Security Administration (Northern Ireland) Act 1992, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security (Consequential Provisions) (Northern Ireland) Act 1992;
    - (iii) the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992 and the Social Security (Consequential Provisions) Act 1992 (Acts of Parliament) as those Acts apply to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald);
    - (iv) the Social Insurance (Guernsey) Law, 1978;
    - (v) the Social Security (Jersey) Law, 1974;

and the Acts, Laws and orders which were repealed or consolidated by those Acts, Laws or orders

2. In relation to the United Kingdom, this Agreement shall apply also to any Acts, Laws, Orders in Council, orders or regulations which supersede, replace, amend supplement or consolidate the Acts, Laws or orders specified in paragraph 1(b).
3. This Agreement shall not affect rights and obligations arising under the law of the European Union or under the EEA Agreement, or under any agreement or convention on social security which either Party has concluded with a third party, but shall not prevent either Party taking into account in the operation of this Agreement the provisions of any such agreement or convention which that Party has concluded with a third party.

## ARTICLE 3

Subject to the provisions of this Agreement, a national of one Party or any other person who is or has been subject to the legislation of one Party shall, while that person is in the territory of the other Party, have the same rights and obligations under the legislation of that other Party as a national of that other Party.

## ARTICLE 4

1. As regards compulsory coverage, subject to the provisions of paragraph 2 to 5 and Articles 5 to 7, where a person works as an employed or self-employed person in the territory of one Party, that person shall be subject only to the legislation of that Party. Where a person is subject only to the legislation of the United Kingdom in accordance with the provisions of this paragraph, that legislation shall apply to that person as if that person were ordinarily resident in the United Kingdom.

2. As regards compulsory coverage, subject to the provisions of paragraph 1 of Article 5, where a person works as an employed person in the territory of both Parties and would otherwise be subject to the legislation of both Parties for the same period, that person shall be subject only to the legislation of the Party in whose territory that person is ordinarily resident.

3. As regards compulsory coverage, where a person is ordinarily resident in the territory of one Party and works as a self-employed person in the territory of both Parties and in case that person would otherwise be subject to the legislation of both Parties for the same period, that person shall be subject only to the legislation of the Party in whose territory that person is ordinarily resident.

4. As regards compulsory coverage, subject to the provisions of paragraphs 1 and 2 of Article 5, where a person works as an employed person in the territory of one Party and as a self-employed person in the territory of the other Party and in case that person would otherwise be subject to the legislation of both Parties for the same period, that person shall be subject only to the legislation of the Party in whose territory that person is ordinarily resident.

5. A person who is receiving benefits under Japanese laws and regulations on account of sickness, injury or pregnancy for any period while that person is in Jersey or Guernsey, shall be excepted from liability to pay a contribution in respect of that period, other than as an employed or self-employed person, under the legislation of Jersey or Guernsey.

#### **ARTICLE 5**

1. As regards compulsory coverage, subject to the provisions of Articles 6 and 7, where a person who is insured under the legislation of one Party, and employed by an employer with a place of business in the territory of that Party, is sent by that employer, either from the territory of that Party, or from a third country, to work in the territory of the other Party, that person shall be subject only to the legislation of the former Party as if that person were working in the territory of that Party, provided that the period of such detachment is not expected to exceed five years.

2. As regards compulsory coverage, where a person insured under the legislation of one Party, who ordinarily works as a self-employed person in the territory of that Party, works only in the territory of the other Party, that person shall be subject only to the legislation of the former Party as if that person were working in the territory of that Party, provided that the period of the self-employment in the territory of the other Party is not expected to exceed five years.

3. Where, by virtue of the provisions of paragraph 1 or 2, a person works as an employed or self-employed person in the territory of one Party while remaining subject only to the legislation the other Party, that person shall not be entitled to pay contributions voluntarily under the legislation of the former Party, unless such voluntary payments are made under the legislation of that former Party with respect to voluntary payment of contributions only by those aged sixty or over.

4. For the purposes of this Article, “insured” means,

- (a) in relation to Japan, that, immediately before the commencement of the period of detachment or self-employment in the United Kingdom, contributions have been paid by, or in respect of, or are payable by, or in respect of, the person concerned, or exemption from liability for contributions has been granted to, or in respect of, the person concerned, and
- (b) in relation to the United Kingdom, that, immediately before the commencement of the period of detachment or self-employment in Japan, contributions have been paid by, or in respect of, or are payable by, or in respect of, or have been credited in respect of, the person concerned.

#### **ARTICLE 6**

As regards compulsory coverage of a person who works as an employed person on board a sea-going vessel flying the flag of either Party, if that person would otherwise be subject to the legislation of both Parties, that person shall be subject only to the legislation of the Party in whose territory that person is ordinarily resident.

#### **ARTICLE 7**

1. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or the Vienna Convention on Consular Relations of April 24, 1963.

2. As regards compulsory coverage, subject to the provisions of paragraph 1, where any civil servant of one Party, any person to be treated as such in the legislation of that Party or any such person as the competent authority of that Party may, within its authority, deem to be treated as a civil servant in the operation of this Agreement, is sent to work in the territory of

the other Party, that person shall be subject only to the legislation of the former Party as if that person were working in the territory of that Party.

#### **ARTICLE 8**

1. For the purpose of modifying the application of the provisions of Articles 4 to 7 in a particular case, subject to paragraph 2 of this Article, as regards compulsory coverage, where by virtue of the provisions of Articles 4 to 7 the legislation of one Party is applicable to a person, the competent authority or competent institution of that Party may exempt that person from that legislation, provided that the following requirements are fulfilled:

- (a) that person will be subject to the legislation of the other Party;
- (b) that person agrees to be subject only to the legislation of that other Party in advance; and
- (c) the competent authority or competent institution of that other Party agrees on the exemption in advance.

2. As regards compulsory coverage of a person who works as an employee or self-employed person in the territory of one or more third countries while that person is working as an employee or self-employed person in the territory of either or both of the Parties, if the legislation of either of the Parties does not apply to that person under the provisions of Articles 4 to 7 of this Agreement and that legislation applies to that person under the provisions of any other agreement or convention on social security or any arrangement on social security under the law of the European Union or under the EEA Agreement, comparable with legislation of both Parties shall apply notwithstanding any other provision of this Agreement.

#### **ARTICLE 9**

1. The competent authorities or competent institutions of the two Parties shall provide any assistance necessary for the operation of this Agreement. This assistance shall be free of charge.

2. The competent authorities or competent institutions of one Party shall, in accordance with its legislation and other relevant laws and regulations, send to those of the other Party information about an individual collected under its legislation in so far as that information is necessary for the application of this Agreement.

3. For the purposes of this Agreement, no document of any kind written in the language of one Party shall be rejected by the competent authorities or competent institutions of the other Party on the ground that it is written in the language of the former Party.

4. Unless disclosure is required under the legislation or other relevant laws and regulations of one Party, any information about an individual which is sent in accordance with the provisions of paragraph 2 shall be treated as confidential and shall be used only for the purposes of applying this Agreement and the legislation of that Party.

5. The competent authorities or competent institutions of the two Parties shall co-operate, upon the request of one Party, to the extent possible in accordance with their respective laws and regulations, as regards the collection of contributions to be paid under the legislation of that Party.

#### **ARTICLE 10**

The competent authorities of the two Parties shall:

- (a) agree on the administrative measures necessary for the operation of this Agreement;
- (b) designate liaison agencies for the operation of this Agreement; and
- (c) communicate to each other, as soon as possible, all information about changes to their legislation in so far as those changes affect the operation of this Agreement.

#### **ARTICLE 11**

1. The two Parties shall make all reasonable efforts to settle through negotiation any dispute about interpretation or application of this Agreement.

2. If any dispute cannot be settled as in the provisions of paragraph 1, it shall be submitted, at the request of either

Party, for decision to an arbitral tribunal which shall be constituted for each individual case in the following manner:

- (a) each Party shall appoint an arbitrator no later than sixty days after the date when one Party has notified the other through diplomatic channels of the request for arbitration. The two arbitrators shall agree to appoint a third arbitrator as chairman of the arbitral tribunal, who shall not be a national of either Party, and who shall be appointed no later than thirty days after the date when the Party which was the later to appoint its arbitrator has notified the other Party of the appointment; and
  - (b) if either Party fails to appoint an arbitrator, or if the arbitrators appointed by the Parties do not agree upon a chairman within the respective periods referred to in sub-paragraph (a), either Party may request the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of one Party or is prevented from making the appointments for any other reason, the Vice-President of the International Court of Justice or, if the Vice-President is similarly prevented from acting, the most senior judge of the International Court of Justice who is not prevented may be requested to make the appointments.
3. The decision of the arbitral tribunal, which shall be binding and final on both Parties, shall be by majority vote.
  4. Unless the arbitral tribunal, decides otherwise -
    - (a) each Party shall bear the cost for its arbitrator, and of its representation before the arbitral tribunal; and
    - (b) the costs of the chairman and other expenses shall be shared equally between the two Parties.
  5. The arbitral tribunal shall determine its own rules of procedure.
  6. For the purpose of paragraph 1 and 2 of this Article, "Party", in relation to the United Kingdom, means, as the case may require, the competent authority of the United Kingdom.

#### **ARTICLE 12**

In applying the provisions of paragraphs 1 and 2 of Article 5 in the case of persons whose detachment or self-employment referred to in the said paragraphs commenced prior to the date of entry into force of this Agreement, the period of such detachment or self-employment shall be considered to begin on the date of entry into force of this Agreement.

#### **ARTICLE 13**

This Agreement shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective constitutional requirements necessary to give effect to this Agreement have been complied with.

#### **ARTICLE 14**

1. This Agreement shall remain in force for an indefinite period. Either Party may give to the other Party, through diplomatic channels, written notice of termination of this Agreement. In that event, this Agreement shall remain in force until the last day of the twelfth month following the month in which the termination was notified.
2. In the event that this Agreement is terminated in accordance with the provisions of paragraph 1, negotiations shall take place between the competent authorities of the two Parties for the settlement of any questions concerning contribution liability outstanding by virtue of the provisions of this Agreement.

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

Done in duplicate at Tokyo, this 29th day of February, 2000, in the Japanese and English languages, both texts being equally authoritative.

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

For the Government of Japan:

STEPHEN GOMERSALL

YOHEI KONO





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[1] Recueil des Lois, Volume 1973-1974, page 355.

[2] Recueil des Lois, Volume 1973-1974, page 319.

[3] Recueil des Lois, Volume 1982-1983, pages 51, 53 and 239, Volume 1986-1987, pages 149, 151 and 227, Volume 1990-1991, pages 467 and 1117, Volume 1992-1993, pages 3, 433 and 437, Volume 1994-1995, page 423, Volume 1996-1997, pages 7 and 1063, Volume 1998, page 722, Volume 1999, page 419 and Nos. 7640, 7666, 8602 and 9112.