Reciprocal Agreement with New Zealand

ORDER IN COUNCIL, DATED 13TH FEBRUARY, 1956, MADE UNDER SECTION SIXTY-ONE OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

1956. No. 28 **[NC]**

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

I, JOHN DE VERE, BARON WAKEHURST, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor of Northern Ireland, in pursuance of section sixty-one of the National Insurance Act (Northern Ireland), 1946(a), and of all other powers enabling me in that behalf, by and with the advice of the Privy Council of Northern Ireland, do hereby order as follows:—

1. This Order may be cited as the National Insurance (Reciprocal Agreement with New Zealand) Order (Northern Ireland), 1956.

2. The provisions of the Agreement on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand set out in the schedule hereto shall, as from the 1st April, 1956, have full force and effect so far as the same relate to Northern Ireland, and the National Insurance Acts (Northern Ireland), 1946 to 1955(b), shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the said provisions.

Given at Stormont Castle, Belfast, this thirteenth day of February, one thousand nine hundred and fifty-six.

Brookeborough

Brian Maginess

Geo. B. Hanna

Ivan Neill

Harry Midgley

Glentoran

Dehra Parker

Alex. R. Gordon

(a) 1946. c. 23.
(b) 1946. c. 23; 1949. c. 20; 1951. c. 18; 1952. c. 14; 1953. c. 27; 1955. c. 1; 1955. c. 10.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF NEW ZEALAND

Wellington, 20th December, 1955

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand,

Being resolved to co-operate in the social field,

Desiring to make arrangements enabling persons who go from one country to the other to receive social security benefits for old age, widowhood, orphanhood, sickness, invalidity and unemployment, as far as possible at the same rates and under the same conditions as persons who have been resident in the latter country,

Have agreed as follows:

PART I.—DEFINITIONS AND GENERAL PROVISIONS

Article 1

For the purposes of the present Agreement, unless the context otherwise requires—

(*a*) "age benefit", "invalid's benefit", "mother's allowance", "orphan's benefit" and "superannuation benefit" have the same meaning as in the legislation of New Zealand;

(*b*) "benefit" means pension, allowance or benefit payable under the legislation of one (or the other) country and includes any increase payable for a dependant;

(*c*) "child" means, in relation to any person, a child, as defined in the legislation which is being applied, who would be treated under that legislation as being a child of that person or included in his family;

(*d*) "child's allowance" means, in relation to the United Kingdom, a guardian's allowance payable under the legislation of that country or a family allowance payable under the Family Allowances Acts, and, in relation to New Zealand, a family benefit or orphan's benefit payable under the legislation of that country;

(*e*) "competent authority" means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland, or the Isle of Man Board of Social Services, as the case may require, and, in relation to New Zealand, the Social Security Commission;

(*f*) "country" means, according to the context, the United Kingdom or New Zealand;

(*g*) "full standard rate", in relation to any benefit payable under the legislation of the United Kingdom, means the rate at which the benefit would be paid to the person concerned, subject to any earnings rule which may be appropriate, if the relevant contribution conditions were fully satisfied in his case;

(*h*) "guardian's allowance", "retirement pension", "widow's allowance", "widowed mother's allowance" and "widow's basic pension" have the same meaning as in the legislation of the United Kingdom;

(*i*) "legislation" means, according to the context, the laws, orders and regulations specified in Article 2 which are or have been or may hereafter be in force in any part of one (or the other) country;

(*j*) "New Zealand" means the metropolitan territory of New Zealand, including the outlying islands; and excludes the Cook Islands (including Niue), the Tokelau Islands and the Trust Territory of Western Samoa;

(*k*) "parent" includes a person who is treated as a parent under the legislation which is being applied;

(*l*) "pension age" means, in relation to any person, the age at which that person is treated as reaching pensionable age under the legislation of the United Kingdom;

(*m*) "qualified to receive" means entitled to receive subject to any condition about giving notice or making a claim and to any earnings rule, means test or disqualification which may be appropriate;

(*n*) "sickness benefit" and "unemployment benefit", in relation to one (or the other) country, have the same meaning as in the legislation of that country;

(*o*) "United Kingdom" means England, Scotland, Wales, Northern Ireland and the Isle of Man;

(*p*) "widow's benefit", in relation to the United Kingdom, means a widow's allowance, widowed mother's allowance or widow's pension, payable under the legislation of that country or a widow's basic pension so payable to a woman who became a widow before the 5th July, 1948, and in relation to New Zealand, has the same meaning as in the legislation of that country, and includes a mother's allowance payable under that legislation;

(*q*) "widow's pension" means widow's pension payable under the legislation of the United Kingdom other than a widow's basic pension.

Article 2

(1) The provisions of the present Agreement shall apply—

(*a*) in relation to the United Kingdom, to the National Insurance Act, 1946, the National Insurance Act (Northern Ireland), 1946, the National Insurance (Isle of Man) Act, 1948, and the legislation in force before the 5th July, 1948, which was replaced by those Acts; and

(*b*) in relation to New Zealand, to the Social Security Act, 1938.

(2) Subject to the provisions of paragraph (3) of this Article, the Agreement shall apply also to any law, order or regulation which carries into effect, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Agreement shall apply, only if the Contracting Parties so agree, to laws, orders or regulations which amend or supplement the legislation specified in paragraph (1) of this Article for the purpose of giving effect to any reciprocal agreement on social security which one (or the other) Party has made with the government of a third country.

PART II.—BENEFIT FOR OLD AGE

United Kingdom Retirement Pensions by Virtue of Residence in New Zealand

Article 3

(1) For the purpose of any claim to receive a retirement pension, a person who is in, or is resident in, the United Kingdom shall be treated as if he, or, in the case of a claim made by a married woman or a widow by virtue of her husband's insurance, her husband, had paid contributions as a non-employed person under the legislation of the United Kingdom for any period during which he was resident in New Zealand, and for any period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(2) Where the person claiming a retirement pension is a married woman or a widow claiming by virtue of her own insurance, the provisions of paragraph (1) of this Article shall not apply to her, unless—

(*a*) at the time when she was last in New Zealand she was receiving age benefit otherwise than by virtue of the present Agreement, and was treated as an unmarried woman for the purposes of that claim, or was receiving superannuation benefit otherwise than by virtue of the Agreement and would have been treated as unmarried if she had been receiving age benefit in lieu of superannuation benefit; or

(*b*) she has, since the date of her marriage, paid one hundred and fifty-six contributions under the legislation of the United Kingdom.

(3) Where a person who is in, or is resident in, the United Kingdom was receiving age benefit or superannuation benefit, otherwise than by virtue of the present Agreement, at the time when he was last in New Zealand, and was over pension age at that time, he shall, if he is not qualified by virtue of paragraphs (1) and (2) of this Article to receive a retirement pension at the full standard rate, be treated as if he satisfied the contribution conditions for such a pension:

Provided that a married woman who does not satisfy the condition specified in sub-paragraph (*a*) of paragraph (2) of this Article shall be treated for the purposes of this paragraph as if her husband and not she satisfied the said contribution conditions.

(4) This Article shall have effect subject to the provisions of Articles 19 and 20.

Article 4

For the purpose of any claim to receive a retirement pension, a person shall be deemed to have retired from regular employment on the date on which he reaches pension age if, within the four months before that date or at any time thereafter, he has received age benefit or superannuation benefit.

Retirement Pensions in New Zealand

Article 5

(1) Where a person would be qualified to receive a retirement pension (other than a retirement pension payable by virtue of Article 3) if he were in the United Kingdom, he shall be qualified to receive that pension while he is in New Zealand.

(2) This Article shall have effect subject to the provisions of Article 21.

Superannuation Benefit and Age Benefit by Virtue of Residence in the United Kingdom

Article 6

(1) For the purpose of any claim to receive age benefit or superannuation benefit, a person who is permanently resident in New Zealand shall be treated as if he had been resident there during any period during which he was resident in the United Kingdom:

Provided that—

(i) this Article shall apply to a man only if he has reached the age of 65;

(ii) nothing in this Article shall be construed as meaning that a person who was not actually resident in New Zealand on the 15th March, 1938, shall be qualified to receive age benefit or superannuation benefit under the conditions specified in the legislation of New Zealand for persons who were resident in that country at that date.

(2) This Article shall have effect subject to the provisions of Article 22.

Part III.—Benefit for Widowhood

United Kingdom Widow's Benefit by Virtue of Residence in New Zealand

Article 7

(1) For the purpose of any claim to receive widow's benefit under the legislation of the United Kingdom, a woman who is in, or is resident in, the United Kingdom, shall be treated as if her husband had paid contributions as a non-employed person under that legislation for any period during which he was resident in New Zealand, and for any period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(2) Where a woman was receiving widow's benefit under the legislation of New Zealand at the time when she was last in that country, and is not qualified, by virtue of paragraph (1) of this Article to receive a widowed mother's allowance or widow's pension at the full standard rate under the legislation of the United Kingdom, she shall be qualified to receive at the full standard rate—

(*a*) a widowed mother's allowance if she has a child in her family in respect of whom she was receiving a mother's allowance at the time when she was last in New Zealand;

(*b*) a widow's pension, or retirement pension, as the case may require, if she is not qualified to receive a widowed mother's allowance but had reached the age of 40 before she last left New Zealand.

(3) This Article shall have effect subject to the provisions of Articles 19 and 20.

United Kingdom Widow or Widow's Child in New Zealand
Article 8

(1) Where a woman would be qualified to receive widow's benefit under the legislation of the United Kingdom (other than widow's benefit payable by virtue of Article 7) if she were in the United Kingdom, she shall be qualified to receive that benefit while she is in New Zealand.

(2) Where a woman would be qualified to receive a widowed mother's allowance under the legislation of the United Kingdom if her child were in the United Kingdom, she shall be qualified to receive that allowance while the child is in New Zealand.

(3) This Article shall have effect subject to the provisions of Article 21.

New Zealand Widow's Benefit by Virtue of Residence in the United Kingdom
Article 9

(1) For the purpose of any claim to receive widow's benefit under the legislation of New Zealand, a woman who is permanently resident in that country shall be treated as if—

(*a*) her husband or herself had been resident in New Zealand during any period during which he or she, as the case may be, was resident in the United Kingdom;

(*b*) he or she has been ordinarily resident in New Zealand at any time when he or she, as the case may be, was ordinarily resident in the United Kingdom;

(*c*) any child, whose place of birth is in the United Kingdom, had been born in New Zealand; and

(*d*) her husband had died in New Zealand if he died in the United Kingdom.

(2) A woman, who is not qualified by virtue of paragraph (1) of this Article to receive widow's benefit under the legislation of New Zealand, shall be so qualified if she is permanently resident in New Zealand and qualified to receive widow's benefit under the legislation of the United Kingdom:

Provided that a woman shall not be qualified by virtue of this paragraph to receive widow's benefit under the legislation of New Zealand if, at the end of the period for which she receives widow's allowance, she is not qualified to receive any other widow's benefit under the legislation of the United Kingdom.

(3) This Article shall have effect subject to the provisions of Article 22.

PART IV.—BENEFIT FOR ORPHANHOOD

Guardian's Allowance

Article **10**

(1) If, at any time a parent of a child was resident in New Zealand, then, for the purpose of any claim to receive a guardian's allowance in respect of that child under the legislation of the United Kingdom, the child shall be treated as if that parent had been insured under that legislation.

(2) This Article shall have effect subject to the provisions of Article 19.

Orphan's Benefit

Article **11**

For the purpose of any claim to receive orphan's benefit under the legislation of New Zealand—

(*a*) a child whose parents are dead shall be treated as if his last surviving parent had been resident in New Zealand during any period during which that parent was resident in the United Kingdom;

(*b*) a child whose place of birth is in the United Kingdom shall be treated as a child born in New Zealand.

PART V.—BENEFIT FOR SICKNESS AND UNEMPLOYMENT

United Kingdom Sickness Benefit

Article **12**

(1) Where a person, who is, or would but for his incapacity for work be, ordinarily gainfully occupied, claims sickness benefit under the legislation of the United Kingdom, he shall be treated under that legislation as if he had—

(*a*) paid contributions as a self-employed person for any period during which he was gainfully occupied in New Zealand;

(*b*) paid contributions as a non-employed person for any period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other;

(*c*) had contributions credited to him as a self-employed person for any period during which he was in New Zealand and was unemployed or incapable of work.

(2) Where a person was receiving sickness benefit or invalid's benefit under the legislation of New Zealand at the time when he was last in that country and is incapable of work at the time when he arrives in the United Kingdom, he shall be treated under the legislation of that country as if, at that time, he satisfied the contribution conditions under which sickness benefit is payable for an indefinite period.

United Kingdom Unemployment Benefit

Article **13**

Where a person, who is ordinarily gainfully occupied under a contract of service, claims unemployment benefit under the legislation of the United Kingdom, he shall be treated under that legislation as if he had—

(*a*) paid contributions as an employed person for any period during which he was gainfully occupied under a contract of service in New Zealand;

(*b*) paid contributions as a non-employed person for any period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other;

(*c*) had contributions credited to him as an employed person for any period during which he was in New Zealand and was unemployed or incapable of work;

(*d*) received unemployment benefit under the legislation of the United Kingdom for any day for which he received such benefit under the legislation of New Zealand;

(*e*) been resident in the United Kingdom during any period during which he was resident in New Zealand.

New Zealand Sickness Benefit, Invalid's Benefit and Unemployment Benefit

Article **14**

(1) For the purpose of any claim to receive sickness benefit or unemployment benefit under the legislation of New Zealand, any period during which a person was resident in the United Kingdom shall be treated as a period during which he was resident in New Zealand.

(2) Where a person who is permanently resident in New Zealand claims invalid's benefit under the legislation of that country, he shall be treated for the purposes of that claim as if—

(*a*) he had been resident in New Zealand during any period during which he was resident in the United Kingdom;

(*b*) any blindness or permanent incapacity for work occurring in the United Kingdom had occurred in New Zealand.

PART VI.—OTHER PROVISIONS ABOUT BENEFIT

Meaning of "resident in New Zealand"

Article **15**

(1) For the purposes of Articles 3, 7, 10 and 13, a person shall be treated as being resident in New Zealand during any period of absence from that country if he was employed outside New Zealand during that period and was liable to pay the social security charge under the legislation of that country for that period on his earnings arising from that employment.

(2) For the purposes of Articles 3, 7 and 10, no account shall be taken of any period during which a person was resident in New Zealand before he reached the age of 16 or after he reached pension age.

Meaning of "resident in the United Kingdom"
Article **16**

For the purposes of Articles 6, 9, 11 and 14, a person shall be treated as being resident in the United Kingdom during any period of absence from that country for which he paid contributions voluntarily or compulsorily under the legislation of that country, or for which he had contributions credited to him under that legislation; and any other period during which he was absent from that country in any circumstances shall be treated as if it were a period during which he was absent in similar circumstances from New Zealand.

Beneficiary of One Country with Dependant in the Other
Article **17**

Where a person, who is qualified to receive any benefit under the legislation of one country (other than a retirement pension payable by virtue of Article 3), would be qualified to receive an increase of that benefit for a dependant if the dependant were in that country, he shall be qualified to receive that increase while the dependant is in the other country:

Provided that—

(*a*) where a child's allowance is payable under the legislation of one country for a child in that country, no increase of benefit shall be paid for that child under the legislation of the other country;

(*b*) where, under the legislation of one country, benefit is payable to an adult dependant who is in that country, or an increase of benefit is payable for that adult dependant, no increase of benefit shall be paid for that adult dependant under the legislation of the other country.

Arrears of Benefit
Article **18**

(1) Where any person makes a claim—

(*a*) for retirement pension, widow's benefit or guardian's allowance under the legislation of the United Kingdom within three months after his last arrival in that country, or

(*b*) for age benefit, superannuation benefit, widow's benefit, invalid's benefit or orphan's benefit under the legislation of New Zealand within three months after his last arrival in that country,

and shows that, apart from satisfying the condition of making a claim, he was entitled to receive the benefit in question, by virtue of the provisions of the present Agreement, for any period between the date of his arrival and the date of his claim, arrears of benefit shall be payable for that period.

(2) Nothing in this Article shall be construed as limiting a person's rights to arrears of benefit under Article 25.

Absence from the United Kingdom
Article **19**

(1) A person shall not be qualified, by virtue of the provisions of Article 3, Article 7 or Article 10, to receive benefit for any period of absence from the United Kingdom, unless he is resident in the United Kingdom and had been so resident before that period began.

(2) A person shall not be qualified, by virtue of the provisions of Article 10, to receive a guardian's allowance in respect of a child of his family for any period of that child's absence from the United Kingdom, unless the child is resident in the United Kingdom and had been so resident before that period began.

New Zealand Beneficiary Temporarily in the United Kingdom

Article 20

(1) Where any person is absent from New Zealand for any period not exceeding one year or for such longer period as may be determined by the competent authority of New Zealand, and his absence is wholly or mainly for the purpose of a visit to the United Kingdom, he shall be qualified to receive, on his return to New Zealand, arrears of any age benefit, superannuation benefit, widow's benefit, invalid's benefit, or orphan's benefit, which he would have been qualified to receive if he had remained in New Zealand:

Provided that, if he was absent from New Zealand for more than one year, he shall be qualified to receive such arrears only for twelve months of his absence or for such longer period as may be determined by the competent authority of New Zealand.

(2) For the purpose of determining the sum due to any person under paragraph (1), of this Article, the amount of any retirement pension, widow's benefit, guardian's allowance, sickness benefit or unemployment benefit which he has received under the legislation of the United Kingdom during his absence from New Zealand shall be disregarded in the computation of his income, but shall be deducted from the amount which would otherwise have been payable under that paragraph; and the competent authority of New Zealand shall refund to the competent authority of the United Kingdom either the former or the latter amount, whichever is the less.

Rate of United Kingdom Benefit in New Zealand

Article 21

Where a person, who is not resident in the United Kingdom and is in New Zealand, is qualified to receive benefit under the legislation of the United Kingdom, the rate of that benefit shall be determined in accordance with those provisions of that legislation which concern the payment of benefit to persons who are not resident in the United Kingdom.

Duplicate Rights in New Zealand

Article 22

For the purpose of any claim to receive benefit under the legislation of New Zealand by virtue of the provisions of the present Agreement (other than benefit payable by virtue of Article 20), the amount of any benefit which the claimant is entitled to receive under the legislation of the United Kingdom shall be disregarded in the computation of his income, and shall be deducted from the amount of benefit which would otherwise have been payable to him under the legislation of New Zealand:

Provided that, in the case of a married claimant, the amount to be deducted shall be the aggregate amount of any benefit which the claimant and the claimant's wife or husband are entitled to receive under the legislation of the United Kingdom, or such part of that aggregate amount as may be determined by the competent authority of New Zealand.

PART VII.—ADMINISTRATION

Article 23

The competent authorities—

(*a*) shall make such administrative arrangements as may be required for the purpose of giving effect to the present Agreement and shall determine all matters of an incidental and supplementary nature which in their opinion are relevant for that purpose;

(*b*) shall communicate to each other information regarding any measure taken by them to give effect to the Agreement;

(*c*) shall supply to each other, on request, information regarding the circumstances of any persons who claim benefit in accordance with the provisions of the Agreement or regarding the circumstances of the dependants of such persons; and

(*d*) shall communicate to each other as soon as possible information regarding any changes made in their legislation which affect the application of the Agreement.

Article 24

Where any benefit is payable under the legislation of one country to a person in the other country, the payment may, at the request of the competent authority of the former country, be made by the competent authority of the latter country as agent for the competent authority of the former country.

PART VIII.—TRANSITIONAL AND FINAL PROVISIONS

Article 25

(1) No provision of the present Agreement shall confer any right to receive any benefit for a period before the date of the entry into force of the Agreement.

(2) Where any person—

(*a*) makes a claim for sickness benefit or unemployment benefit within one month after the date of the entry into force of the Agreement or within such longer period as may be described in the legislation under which the benefit is claimed, or

(*b*) makes a claim for any other benefit and gives any relevant notice of retirement within six months after that date,

and shows that, apart from satisfying the condition of making a claim (and where appropriate, giving any notice), he was entitled to receive the benefit in question by virtue of the provisions of the Agreement for any period between the date of the entry into force of the Agreement and the date of his claim, arrears of benefit shall be paid for that period.

(3) Any contribution which a person has paid or had credited to him under the legislation of the United Kingdom before the date of the entry into force of the Agreement, and any period during which a person has been resident in either country before that date, or gainfully occupied, unemployed or incapable of work before that date, shall be taken into account for the purpose of determining the right to receive any benefit in accordance with the provisions of the Agreement.

(4) No provision of the Agreement shall diminish any rights which a person has acquired under the legislation of either country before the date of the entry into force of the Agreement.

Article 26

In the event of the termination of the present Agreement, any rights acquired by a person in accordance with its provisions shall be maintained, and the Contracting Parties shall negotiate for the settlement of any rights then in course of acquisition by virtue of its provisions.

Article 27

The present Agreement shall enter into force on the first day of April, 1956, and shall remain in force for a period of one year from that date. Thereafter it shall continue in force from year to year unless notice of termination is given in writing by either party at least six months before the expiry of any such yearly period.

Done at Wellington this 20th day of December, 1955.

For the Government of the United Kingdom of Great Britain and Northern Ireland:
G. A. P. Scoones.

For the Government of New Zealand:
E. H. Halstead.

Residence and Persons Abroad Amendment Regulations (Northern Ireland), 1956

REGULATIONS, DATED 28TH DECEMBER, 1956, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

1956. No. 211 [C]

The Ministry of Labour and National Insurance, in conjunction with the Ministry of Finance, in exercise of the powers conferred by section 57 of the National Insurance Act (Northern Ireland), 1946(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:—

(a) 1946, c. 23.