1968. No. 252 **[NC]**

NATIONAL INSURANCE AND INDUSTRIAL INJURIES

Republic of Ireland

ORDER IN COUNCIL, DATED 8TH NOVEMBER 1968, MADE UNDER SECTION 99 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966 AND SECTION 79 OF THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND) 1966.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

ERSKINE OF RERRICK

Whereas at Dublin on 3rd October 1968, an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland (which Agreement is set out in the Schedule and is hereinafter referred to as "the Agreement") was signed on behalf of those Governments:

And whereas by Article 2 of the Agreement it is provided that the Agreement shall come into force on 4th November 1968:

And whereas by section 99 of the National Insurance Act (Northern Ireland) 1966(**a**) and section 79 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**b**) it is provided that the Governor of Northern Ireland may by Order in Council make provision for modifying or adapting those Acts in their application to cases affected by agreements with other governments providing for reciprocity in matters specified in those sections:

Now, therefore, I, John Maxwell, Baron Erskine of Rerrick, Knight Grand Cross of the Most Excellent Order of the British Empire, Governor of Northern Ireland, in pursuance of the said section 99 of the National Insurance Act (Northern Ireland) 1966 and the said section 79 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, 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:

Citation and commencement

1. This Order may be cited as the National Insurance and Industrial Injuries (Republic of Ireland) Order (Northern Ireland) 1968, and shall come into operation with effect from 4th November 1968.

Modification of Acts

2. The provisions contained in the Agreement shall have full force and effect, so far as the same relate to Northern Ireland and provide for reciprocity with the Government of the Republic of Ireland in any matters specified in section 99(1) of the National Insurance Act (Northern Ireland) 1966 or

(**a**) 1966. c. 6 (N.I.). (**b**) 1966. c. 9 (N.I.).

section 79(1) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966; and accordingly the National Insurance Acts (Northern Ireland) 1966 to 1968 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1968 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

Given at Government House, Hillsborough, this 8th day of November 1968.

H. V. Kirk

Wm. J. Morgan

W. K. Fitzsimmons

SCHEDULE

Agreement on Social Security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland

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

Desirous of extending the scope of the Agreement on Social Security which was signed on their behalf at Dublin on 28 February 1966 and of earlier Agreements,

Have agreed as follows:

ARTICLE 1

For the purposes of the present Agreement "the Agreement of 1966" means the Agreement on Social Security which was signed on behalf of those Governments at Dublin on 28 February 1966.

ARTICLE 2

This Agreement shall come into force on 4 November 1968, and shall be read as one with the Agreement of 1966.

ARTICLE 3

(1) In Article 1(1) of the Agreement of 1966, for the definitions of "the legislation of the United Kingdom", "the legislation of the Republic of Ireland", "the United Kingdom Fund" and "the Fund of the Republic of Ireland", there shall be, respectively, substituted the following definitions—

"the legislation of the United Kingdom" means, according to the context, the National Insurance Act 1965, the National Insurance (Industrial Injuries) Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Acts 1948 to 1966 or the National Insurance (Industrial Injuries) (Isle of Man) Acts 1948 to 1966, and includes enactments repealed or consolidated by, or repealed by enactments consolidated by, those Acts;

"the legislation of the Republic of Ireland" means the Social Welfare Acts 1952 to 1968, and includes enactments repealed by those Acts;

"the United Kingdom Fund" means, according to the context, the National Insurance Fund, the Industrial Injuries Fund, the Northern Ireland National Insurance Fund, the Northern Ireland Industrial Injuries Fund, the Manx National Insurance Fund or the Manx Industrial Injuries Fund established under the legislation of the United Kingdom;

"the Fund of the Republic of Ireland" means, according to the context, the Social Insurance Fund or the Occupational Injuries Fund established under the legislation of the Republic of Ireland.

(2) At the end of the said Article 1(1) there shall be added the following words—

" "the earlier agreements" means all previous agreements between the Governments of the two countries or the competent authorities of the two countries providing for reciprocity in relation to the subject-matter of the legislation of the two countries;

"benefit" means any benefit, pension, allowance or grant under the legislation of the United Kingdom or under the legislation of the Republic of Ireland, as the case may require;

"occupational injuries benefit" means injury benefit, disablement benefit and death benefit under the legislation of the United Kingdom or under the legislation of the Republic of Ireland, as the case may require;

"industrial injury" or "industrial disease" means, respectively, an injury or disease in respect of which occupational injuries benefit is payable;

"non-domiciled airman" means, for the purposes of the legislation of the United Kingdom, an airman for those purposes who neither is domiciled nor has a place of residence in the United Kingdom and, for the purposes of the legislation of the Republic of Ireland, means an airman for those purposes who neither is domiciled, nor has a place of residence in the Republic of Ireland."

ARTICLE 4

Article 11 of the Agreement of 1966 shall be supplemented by the addition of the following paragraphs—

"(5) The relevant reciprocal provisions shall not apply, for the purposes of sickness or disability benefit under the legislation of one country, to a person claiming that benefit if, for the date for which benefit is claimed, widow's benefit, a widow's (contributory) pension or a pension by way of death benefit (other than an orphan's pension) is payable to that person under the legislation of the other country or an increase of benefit is payable in respect of that person under that legislation.

(6) Where a person receives a sum by way of sickness or disability benefit under the legislation of one country by virtue of paragraph (2) of this Article or the relevant reciprocal provisions for any period beginning on or after 4 November 1968 for which he is not entitled to that benefit, and is entitled to widow's benefit, a widow's (contributory) pension, a retirement pension or a pension by way of death benefit (other than an orphan's pension) for the same period under the legislation of the other country, the said sum so received shall be treated as having been paid by way of the benefit to which he is entitled under the legislation of the latter country."

ARTICLE 5

Part IV of the Agreement of 1966 shall be supplemented by the addition of the following Articles—

"ARTICLE 15

For the purposes of the legislation of the United Kingdom, a person shall not be treated as a non-domiciled airman if he is domiciled or has a place of residence in the Republic of Ireland and, for the purposes of the legislation of the Republic of Ireland, a person shall not be so treated if he is domiciled or has a place of residence in the United Kingdom.

"ARTICLE 16

In relation to any area outside the territorial waters of a country which has been designated, under the laws of that country concerning the Continental Shelf, as an area within which the rights of that country with respect to the sea bed and subsoil and their natural resources may be exercised, the provisions of this Agreement and the earlier agreements shall apply subject to such modifications as may be required.

"ARTICLE 17

(1) For the purpose of the right of any person to receive an increase of benefit under the legislation of one country in respect of a child or adult

dependant who is in the other country or ordinarily resident there, the child or adult dependant, as the case may be, shall be treated as if he were, as the case may be, in the former country or ordinarily resident there.

(2) Where under the legislation of one country a person would be entitled to death benefit if a child were in that country or had been there at the time when one of his parents died or at any other specified time, he shall be entitled to that benefit if the child, as the case may be, is in the other country or was there at that time.

(3) For the purpose of the right of any person to receive benefit or an increase of benefit in respect of a child—

(*a*) a child in the Republic of Ireland shall not be treated under the legislation of the United Kingdom as included in any family as respects any period during which he is detained in a reformatory or an industrial school;

(*b*) a child in the United Kingdom shall not be treated under the legislation of the Republic of Ireland as a qualified child or as a child qualified for the purposes of the Social Welfare (Occupational Injuries) Act 1966 as respects any period during which he is detained in a remand home, an approved school or a training school.

(4) Notwithstanding the provisions of paragraph (1) of this Article and those provisions of the earlier agreements which enable a child or adult dependant who is in one country to be treated as if he were in the other country for the purpose of the right of any person to receive an increase of benefit under the legislation of that other country, no increase of benefit shall be paid under the legislation of one country in respect of a child or adult dependant who is in the other country for any period during which an increase of benefit is payable in respect of that child or adult dependant, as the case may be, under the legislation of the other country.

"ARTICLE 18

Nothing in paragraph (5) of Article 11 of this Agreement shall diminish any right to sickness or disability benefit if the benefit has begun to accrue before 4 November 1968, and nothing in Article 17 or Article 27 of this Agreement shall diminish any right to old age benefit, widow's benefit, a widow's (contributory) pension, death benefit, a guardian's allowance or any increase of any such benefit if the benefit or increase of benefit, as the case may be, has begun to accrue before that date.

"ARTICLE 19

The competent authorities—

(*a*) shall make such administrative arrangements as may be required for the application of the present Agreement;

(*b*) shall communicate to each other information regarding any measure taken by them for the application of the Agreement;

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

"ARTICLE 20

The competent authorities of the two countries shall furnish information and assistance to one another with regard to any persons claiming benefit under the legislation of either country."

ARTICLE 6

The Agreement of 1966 shall be supplemented by the addition of the following Part—

"PART V

OCCUPATIONAL INJURIES BENEFIT

ARTICLE 21

(1) Persons in one country shall be entitled to receive occupational injuries benefit under the legislation of the other country only in accordance with the provisions of this Agreement.

(2) A person shall not be disqualified for receiving—

(*a*) injury benefit;

(*b*) disablement benefit (including unemployability supplement, constant attendance allowance, hospital treatment allowance or exceptionally severe disablement allowance); or

(*c*) death benefit (including, by way of death benefit, allowances in respect of children);

under the legislation of one country for any period during which he is in the other country, provided that, subject to the provisions of paragraph (4) of this Article, in the case of injury benefit, such notice as is required under the next paragraph of this Article of his intended absence from the former country is given to the competent authority of that country.

(3) The period of such notice shall be one week or more expiring immediately before the date of the commencement of the journey to the other country, or such shorter period as such competent authority may accept as sufficient in a particular case, provided that the said authority may in a particular case waive the requirement to give notice.

(4) The provisions relating to the giving of notice in paragraphs (2) and (3) of this Article shall not apply where injury benefit is payable to a person under the legislation of one country in respect of a disease which develops after the commencement of his journey to the other country.

ARTICLE 22

Where a person has received benefit for an industrial injury or industrial disease under the legislation of one country and claims such benefit for a later injury or disease under the legislation of the other country, then, for the purpose of determining the degree of his disablement, the injury or disease for which he received the first-mentioned benefit shall be treated as if the legislation of that other country applied to it, and any benefit payable for that injury or disease shall be taken into account as if it were payable under that legislation.

ARTICLE 23

Where a person contracts an industrial disease after having been employed in both countries in occupations to which, under the provisions of the legislation of both countries, the disease may be attributable, benefit in respect of such disease shall be payable only under the legislation of the country in which the person was last employed in such an occupation before the disease was first diagnosed. Any period of employment in such an occupation in one country shall be deemed to have been employment in that occupation in the other country for the purpose of any provision in the legislation of that other country concerning the reckoning of time in relation to such an occupation.

ARTICLE 24

Where an accident happens to a person after he leaves one country to go in the course of his employment to the other country, and before he arrives in that other country, then, for the purpose of any claim to benefit in respect of that accident—

(*a*) the accident shall be deemed to have happened in the country under the legislation of which contributions were expected to be payable in respect of his employment in that other country; and

(*b*) his absence from either country shall be disregarded for the purpose of determining whether his employment was insurable under such legislation.

ARTICLE 25

(1) Where a person is employed in one country and, by virtue of the earlier agreements, the provisions of the legislation of the other country which concern the payment of contributions in relation to occupational injuries benefit apply to him, then, without prejudice to the provisions of the earlier agreements, for the purposes of any claim to occupational injuries benefit under the legislation of either country in respect of an accident happening, or a disease contracted, in the course of such employment, the person shall be treated as if the accident had happened, or the disease had been contracted, in the other country and as if that employment were insurable and as if he were in such other country.

(2) This Article shall have effect from 1 May 1967.

ARTICLE 26

Where a person receives a sum by way of sickness or disability benefit under the legislation of one country for any period beginning on or after 4 November 1968, and is entitled to injury benefit for the same period under the legislation of the other country, the said sum so received shall be treated as having been paid by way of injury benefit due under the legislation of that other country.

ARTICLE 27

Any occupational injuries benefit payable under the legislation of one country or any increase of such benefit shall, without prejudice to the provisions of the earlier agreements and Article 11 of this Agreement, be treated, for the purposes of the legislation of the other country relating to overlapping benefits or adjustments for successive accidents, as if it were an equal amount of the corresponding benefit or increase of benefit payable under the legislation of the latter country, provided that any right which a person has acquired under the legislation of the latter country shall be maintained, if it is a right to occupational injuries benefit which he has acquired before the benefit under the legislation of the former country became payable to him."

IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed the present Agreement.

DONE in duplicate at Dublin this third day of October nineteen hundred and sixty-eight.

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

A. G. GILCHRIST

For the Government of the Republic of Ireland:

JOSEPH BRENNAN

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

This Order gives effect in Northern Ireland to the Agreement on social security (set out in the Schedule) made between the Governments of the United Kingdom and the Republic of Ireland in so far as it relates to the matters for which provision is made by the National Insurance Acts (Northern Ireland) 1966 to 1968 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1968.