1970. No. 21 **[NC]**

FAMILY ALLOWANCES AND NATIONAL INSURANCE

New Zealand

ORDER IN COUNCIL, DATED 9TH FEBRUARY 1970, MADE UNDER SECTION 99 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

GREY OF NAUNTON

WHEREAS at Wellington on 19th June 1969 an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand (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 36 of the Agreement it is provided that the Agreement shall enter into force on a date to be agreed by Exchange of Letters between the Contracting Parties:

AND WHEREAS by an Exchange of Letters on 11th December 1969 between the Contracting Parties it was agreed that the Agreement should enter into force on 1st January 1970:

AND WHEREAS by section 99 of the National Insurance Act (Northern Ireland) 1966(**a**) as extended by section 21 of the Family Allowances 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 the said Acts of 1966 in their application to cases affected by agreements with other governments providing for reciprocity in matters specified in those sections:

NOW, THEREFORE, I, RALPH FRANCIS ALNWICK, BARON GREY OF NAUNTON, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Royal Victorian Order, Officer of the Most Excellent Order of the British Empire, Governor of Northern Ireland, in pursuance of the said section 99 as so extended, 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, commencement and interpretation

1.—(1) This Order may be cited as the Family Allowances and National Insurance (New Zealand) Order (Northern Ireland) 1970 and shall come into operation with effect from 1st January 1970.

(2) For the purposes of this Order, Article 36 of the Agreement shall be construed as if for the words "on a date to be agreed by Exchange of Letters between the Contracting Parties" there were substituted the words "on 1 January 1970".

(**a**) 1966. c. 6 (N.I.). (**b**) 1966. c. 8 (N.I.).

Modification of Acts

2. The provisions contained in the Agreement shall have full force and effect, so far as they relate to Northern Ireland and provide for reciprocity in any matters specified in section 99(1) of the National Insurance Act (Northern Ireland) 1966 as extended by section 21 of the Family Allowances Act (Northern Ireland) 1966; and the Family Allowances Acts (Northern Ireland) 1966 to 1969 and the National Insurance Acts (Northern Ireland) 1966 to 1969 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to those provisions.

Revocation of Order

3. The National Insurance (Reciprocal Agreement with New Zealand) Order (Northern Ireland) 1956(c) is hereby revoked.

GIVEN at Government House, Hillsborough, this 9th day of February 1970.

H. V. Kirk
W. K. Fitzsimmons
W. J. Long

(c) S.R. & O. (N.I.) 1956, No. 28.

SCHEDULE

AGREEMENT

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

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

Having established reciprocity in the field of social security by means of the reciprocal arrangements on family benefits which they made in 1948 and the Agreement on Social Security which they made in 1955,

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

Have agreed as follows:

PART I.—DEFINITIONS AND GENERAL PROVISIONS

ARTICLE 1

For the purposes of this 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*) "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, or the Isle of Man Board of Social Services, as the case may require, and, in relation to New Zealand, the Social Security Commission;

(*e*) "contribution" means a flat-rate contribution;

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

(*g*) "family benefit" means, in relation to the United Kingdom, family allowances payable under the legislation of the United Kingdom and, in relation to New Zealand, family benefit payable under the legislation of New Zealand;

(*h*) "the former Agreement" means the Agreement on Social Security signed in Wellington on 20 December 1955 on behalf of the Contracting Parties;

(*i*) "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;

(*j*) "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;

(*k*) "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;

(*l*) "New Zealand" does not include the Cook Islands, Niue or the Tokelau Islands;

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

(*n*) "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;

(*o*) "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;

(*p*) "the reciprocal arrangements on family benefits" means the reciprocal arrangements on family benefits made in 1948 by the Minister of Social Security in New Zealand with the Minister of National Insurance in Great Britain and the Ministry of Labour and National Insurance for Northern Ireland;

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

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

(*s*) "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 5 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;

(*t*) "widow's pension" means widow's pension payable under the legislation of the United Kingdom other than a widow's basic pension.

ARTICLE 2

Legislation

(1) The provisions of this Agreement shall apply—

(*a*) in relation to the United Kingdom—

(i) to the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1948 and any enactments repealed or consolidated by, or repealed by enactments consolidated by, those Acts; and

(ii) to the Family Allowances Act 1965, the Family Allowances Act (Northern Ireland) 1966 and the Family Allowances (Isle of Man) Act 1946; and

(*b*) in relation to New Zealand, to the Social Security Act 1964.

(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) Where a person who is in the United Kingdom or resident there claims a retirement pension, the provisions of the following paragraphs of this Article shall apply for the purpose of his claim.

(2) The claimant shall be treated as if he, or, in the case of a claim made by a married woman or widow by virtue of her husband's insurance, her husband, had paid contributions under the legislation of the United Kingdom for any period during which he was resident in New Zealand and for any other period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(3) Where the claimant is a married woman claiming by virtue of her own insurance, the provisions of paragraph (2) of this Article shall not apply to her in respect of any period during which she was a married woman unless—

(*a*) at the time when she was last in New Zealand, she was qualified to receive age benefit or superannuation benefit otherwise than by virtue of this Agreement or the former Agreement and was, or could have been, treated as an unmarried woman for the purpose of that benefit; or

(*b*) she has paid one hundred and fifty-six contributions under the legislation of the United Kingdom (other than contributions which would not be taken into account for the purpose of any claim to receive benefit under that legislation) for any period after her marriage and before the time when she reached pension age.

(4) Where the claimant is a woman claiming by virtue of her own insurance, her marriage having been terminated by the death of her husband or otherwise, and her husband's contributions are taken into account for the purpose of her claim, she shall be treated as if he had paid contributions under the legislation of the United Kingdom for any period during which he was resident in New Zealand and for any other period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(5) Where the claimant is a woman who—

(*a*) would have been qualified to receive widow's benefit (other than a widow's basic pension) for any period, by virtue of Article 8 of this Agreement, if this Agreement had been in force during that period; or

(*b*) would have been entitled, under the arrangements made for crediting contributions to widows who claim retirement pensions under the legislation of the United Kingdom, to have contributions credited to her for any period, if this Agreement had been in force during that period;

she shall be treated as if contributions had been credited to her for that period.

(6) Where the claimant was receiving age benefit or superannuation benefit (otherwise than by virtue of this Agreement or the former Agreement) at the time when he was last in New Zealand and was over pension age at that time, he shall be treated as if he satisfied the contribution conditions for a retirement pension at the full standard rate. Provided that, if the claimant is a married woman who does not satisfy either of the conditions specified in paragraph (3) of this Article, she shall be treated as if her husband and not she satisfied the said contribution conditions.

(7) This Article shall have effect subject to the provisions of Article 26.

ARTICLE 4

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

ARTICLE 5

For the purpose of those provisions of the legislation of the United Kingdom which concern the payment of contributions for any period after the insured person has reached pension age and the increase of the weekly rate of retirement pension by virtue of those contributions, a person who was resident in New Zealand for any period shall be treated as if he had been insured under that legislation since the beginning of that period.

United Kingdom Retirement Pensions in New Zealand

ARTICLE 6

(1) Where a person would be qualified to receive a retirement pension (otherwise than by virtue of Article 3 of this Agreement or Article 3 of the former Agreement) 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 28.

New Zealand Age Benefit and Superannuation Benefit by virtue of residence in the United Kingdom

ARTICLE 7

(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—

(*a*) this Article shall not apply, for the purpose of any claim to receive age benefit, to any man who has not reached the age of 65 or to any woman who has not reached the age of 60;

(*b*) nothing in this Article shall be construed as meaning that any person who claims age benefit or superannuation benefit by virtue of this Agreement shall be qualified to receive such benefit under the conditions specified in the legislation of New Zealand for persons who were resident in that country on 15 March 1938.

(2) This Article shall have effect subject to the provisions of Articles 29 and 30.

PART III.—BENEFIT FOR WIDOWHOOD

United Kingdom Widow's Benefit by virtue of residence in New Zealand

ARTICLE 8

(1) Where a woman who is in the United Kingdom or resident there claims widow's benefit under the legislation of the United Kingdom, the provisions of the following paragraphs of this Article shall apply for the purpose of her claim.

(2) The claimant shall be treated as if her husband had paid contributions under the legislation of the United Kingdom for any period during which he was resident in New Zealand and for any other period (not exceeding thirteen weeks in the case of any one journey) during which he was travelling from either country to the other.

(3) Where the claimant was receiving widow's benefit under the legislation of New Zealand (otherwise than by virtue of this Agreement or the former Agreement) at the time when she was last in that country, she shall be qualified to receive, under the legislation of the United Kingdom, at the full standard rate—

(*a*) a widowed mother's allowance, if she has a child in her family, or has residing with her a person under the age of nineteen years and the widow's benefit which she was receiving at the time when she was last in New Zealand included a mother's allowance in respect of that child or person;

(*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 fifty years either before she last left New Zealand or when she ceased to be qualified to receive a widowed mother's allowance.

(4) The claimant shall not be qualified to receive for the same period more than one widow's benefit under the legislation of the United Kingdom.

(5) Any pension or allowance which has been granted to the claimant in respect of the death of her husband under the War Pensions Act 1954 of New Zealand shall be treated as if it were a benefit awarded to her in respect of his death under a Service Pensions Instrument as defined in the National Insurance (Overlapping Benefits) Regulations.

(6) This Article shall have effect subject to the provisions of Article 26.

United Kingdom Widow or Widow's Child in New Zealand

ARTICLE 9

(1) Where a woman would be qualified to receive widow's benefit under the legislation of the United Kingdom (otherwise than by virtue of Article 8 of this Agreement or Article 7 of the former Agreement) 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 or a person under the age of nineteen who is residing with her were in the United Kingdom, she shall be qualified to receive that allowance while that child or person is in New Zealand.

(3) This Article shall have effect subject to the provisions of Article 28.

New Zealand Widow's Benefit by virtue of residence in the United Kingdom

ARTICLE 10

(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 ordinarily resident in New Zealand during any period during which he or she, as the case may be, was ordinarily resident in the United Kingdom;

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

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

(2) This Article shall have effect subject to the provisions of Articles 29 and 30.

PART IV.—BENEFIT FOR ORPHANHOOD

United Kingdom Guardian's Allowance by virtue of residence in New Zealand

ARTICLE 11

(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 26.

New Zealand Orphan's Benefit by virtue of residence in the United Kingdom

ARTICLE 12

For the purpose of any claim to receive orphan's benefit under the legislation of New Zealand in respect of a child who is permanently resident in that country—

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

(*b*) any period during which the child's last surviving parent was ordinarily resident in the United Kingdom shall be treated as a period during which that parent was ordinarily resident in New Zealand.

PART V.—FAMILY BENEFIT

ARTICLE 13

(1) If a person who claims family benefit under the legislation of the United Kingdom or a child for whom family benefit is so claimed is ordinarily resident in the United Kingdom, that person or child shall be treated for the purpose of the claim—

(*a*) as if his place of birth were in the United Kingdom if it is in New Zealand; and

(*b*) as if he had been resident or present in the United Kingdom during any period during which he was respectively resident or present in New Zealand.

(2) This Article shall have effect subject to the provisions of Article 17.

ARTICLE 14

(1) The following provisions shall apply only to any child who is ordinarily resident in the United Kingdom and is in New Zealand during any part of a period of absence from the United Kingdom and only in relation to any family benefit which would have been payable for the child under the legislation of the United Kingdom if he had remained in that country—

(*a*) where the period does not exceed six months, benefit shall be payable for the whole period;

(*b*) where the period exceeds six months, benefit may be payable at the discretion of the competent authority of the United Kingdom.

(2) The following provisions shall apply only to any child born to a woman at a time when she is ordinarily resident in the United Kingdom and absent from that country for a period during any part of which she is in New Zealand and only in relation to any family benefit which would have been payable for the child under the legislation of the United Kingdom if the child had been born in that country and had remained there—

(*a*) where the period does not exceed six months, arrears of benefit shall be payable when she returns with the child to the United Kingdom;

(*b*) where the period exceeds six months, arrears of benefit may, at the discretion of the competent authority of the United Kingdom, be payable when she returns with the child to that country.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply where the benefit is not claimed within six months after the child or the woman, as the case may be, returns to the United Kingdom.

(4) This Article shall have effect subject to the provisions of Article 17.

ARTICLE 15

(1) If a person who has been entitled to receive family benefit for a child under the legislation of the United Kingdom is in New Zealand and is not qualified to receive family benefit for that child under the legislation of New Zealand, he shall be treated for the purpose of maintaining entitlement as if he were in the United Kingdom.

(2) The provisions of paragraph (1) of this Article, as well as the provisions of paragraphs (1), (3) and (4) of Article 14, shall apply, subject to the conditions set out in those paragraphs, in any case where a person who has been entitled to receive family benefit under the legislation of the United Kingdom and the child for whom he has been so entitled are both absent from the United Kingdom.

ARTICLE 16

(1) For the purpose of any claim to receive family benefit under the legislation of New Zealand for a child who is considered by the competent authority of New Zealand likely to remain in that country for at least three years, that child shall be deemed to have been born in New Zealand if one of the following conditions is satisfied—

(*a*) the child was born in the United Kingdom;

(*b*) the mother gave birth to the child while only temporarily absent from the United Kingdom;

(*c*) the child has at any time resided continuously in the United Kingdom for not less than twelve months.

(2) This Article shall have effect subject to the provisions of Article 17.

ARTICLE 17

Subject to the provisions of Article 18, where family benefit has been paid for a child under the legislation of one country for any period, no family benefit shall be paid for that child under the legislation of the other country for that period.

ARTICLE 18

Nothing in this Agreement shall be construed as preventing the competent authority of New Zealand from authorising arrears of family benefit in respect of the whole or any part of a period of temporary absence from New Zealand as provided for in the legislation of that country provided that any amount received under the legislation of the United Kingdom during the period of absence shall be deducted from any arrears so authorised.

PART VI.—BENEFIT FOR SICKNESS, INVALIDITY AND UNEMPLOYMENT

ARTICLE 19

(1) Where a person claims, under the legislation of the United Kingdom, sickness benefit at a time when he is ordinarily gainfully occupied in that country, or would but for his incapacity for work be so occupied, or unemployment benefit at a time when he is ordinarily gainfully occupied under a contract of service in that country, he shall be treated under that legislation—

(*a*) as if he had paid contributions—

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

(ii) as a self-employed person for any other period during which he was gainfully occupied in New Zealand; and

(iii) 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;

(*b*) as if he had had contributions credited to him—

(i) as an employed person for any period during which he was resident in New Zealand and was unemployed and available for work or was incapable of work at a time when he was ordinarily gainfully occupied under a contract of service; and

(ii) as a self-employed person for any other period during which he was resident in New Zealand and was incapable of work at a time when he was, or would but for his incapacity for work be, ordinarily gainfully occupied; and

(*c*) as if he had been resident in the United Kingdom during any period during which he was resident in New Zealand.

(2) Nothing in paragraph (1) of this Article shall diminish any right which a person has, apart from this Agreement, to draw sickness benefit or unemployment benefit under the legislation of the United Kingdom.

(3) Where a person was receiving sickness benefit or invalid's benefit under the legislation of New Zealand 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 the United Kingdom as if, at that time, he satisfied the contribution conditions under which sickness benefit is payable for an indefinite period.

ARTICLE 20

(1) Where a person claims sickness benefit under the legislation of New Zealand at a time when he is ordinarily gainfully occupied in that country, or would but for his incapacity for work be so occupied, or unemployment benefit at a time when he would ordinarily be gainfully occupied in that country, any period during which he 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 purpose 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 originating in the United Kingdom had originated in New Zealand.

(3) Nothing in this Article shall be construed as meaning that any person who claims invalid's benefit by virtue of this Agreement shall be qualified to receive that benefit under the conditions specified in the legislation of New Zealand for persons who were resident in that country on 4 September 1936.

PART VII.—OTHER PROVISIONS ABOUT BENEFIT

New Zealand Benefit by virtue of residence in New Zealand

ARTICLE 21

For the purpose of any claim to receive any benefit under the legislation of New Zealand otherwise than by virtue of this Agreement, any period for which the claimant has received age benefit, superannuation benefit, widow's benefit or invalid's benefit under that legislation by virtue of this Agreement or the former Agreement shall be ignored in determining whether he satisfies any condition requiring him to have resided continuously in New Zealand for a prescribed number of years.

Meaning of "resident in New Zealand"

ARTICLE 22

(1) For the purposes of Articles 3, 8, 11, 13 and 19 of this Agreement, a person shall be treated as having been 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 income tax under the legislation of that country for that period on his earnings arising from that employment.

(2) For the purposes of Articles 3, 8 and 11 of this Agreement, 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 23

(1) For the purposes of Articles 7, 10, 12 and 20 of this Agreement, a person shall be treated as having been resident in the United Kingdom or ordinarily resident there, as the case may be, during any period of absence from that country for which he, or, if the person is a woman who is or has been married, her husband, has 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 may, at the discretion of the competent authority of New Zealand, be treated as if it were a period during which he was absent in similar circumstances from New Zealand.

(2) For the purpose of Article 7 of this Agreement, no account shall be taken of any period during which a person was resident in the United Kingdom before he reached the age of 16.

United Kingdom beneficiary with dependant in New Zealand

ARTICLE 24

(1) Where a woman who is qualified to receive a widowed mother's allowance under the legislation of the United Kingdom otherwise than by virtue of Article 8 of this Agreement or Article 7 of the former Agreement would be qualified to receive also an increase of that benefit for an only, elder or eldest child if the child were in the United Kingdom, she shall be qualified to receive that increase while the child is in New Zealand.

(2) Where a person who is qualified to receive any benefit under the legislation of the United Kingdom, otherwise than by virtue of Article 3 or Article 8 of this Agreement or Article 3 or Article 7 of the former Agreement, would be qualified to receive also an increase of that benefit for a dependant if the dependant were in the United Kingdom, he shall be qualified to receive that increase while the dependant is in New Zealand provided that he shall not be qualified to receive any increase of benefit for children who are permanently resident in New Zealand (other than an increase to which paragraph (1) of this Article refers).

Arrears of Benefit

ARTICLE 25

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 this 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.

Absence from the United Kingdom

ARTICLE 26

(1) A person shall not be qualified, by virtue of the provisions of Articles 3, 8 and 11 of this Agreement, 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 11 of this Agreement, to receive a guardian's allowance in respect of a child 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 27

(1) The provisions of this Article shall apply only to any person who is ordinarily resident in New Zealand and absent from New Zealand wholly or mainly for the purpose of a visit to the United Kingdom, and only in relation to any age benefit, superannuation benefit, widow's benefit, invalid's benefit or orphan's benefit which he would have been qualified to receive (otherwise than by virtue of this Agreement or the former Agreement) if he had remained in New Zealand.

(2) Where the period of absence from New Zealand does not exceed one year, the beneficiary shall be qualified to receive arrears of benefit for the whole period of his absence.

(3) Where the period of absence from New Zealand exceeds one year but does not exceed two years, the beneficiary may, at the discretion of the competent authority of New Zealand, be qualified, on his return to New Zealand, to receive arrears of benefit for the first six months of his absence.

(4) For the purpose of determining the sum due to any beneficiary under paragraph (2) or paragraph (3) 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 for the period of 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.

(5) For the purpose of applying the provisions of paragraph (4) of this Article in any case where the beneficiary is a man whose wife is not qualified to receive any age benefit, superannuation benefit or invalid's benefit under the legislation of New Zealand, the amount of any retirement pension, sickness benefit or unemployment benefit which she has received under the legislation of the United Kingdom during the period of his absence from New Zealand shall be treated as if it were such an amount which he had received under that legislation during that period.

Rate of United Kingdom Benefit in New Zealand

ARTICLE 28

Where a person, who is not ordinarily 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 ordinarily resident in the United Kingdom.

New Zealand Benefit by virtue of residence in the United Kingdom

ARTICLE 29

None of the provisions of Articles 7, 10 and 20 of this Agreement shall apply to any person who has failed to apply for any benefit which may be payable to him under the legislation of the United Kingdom.

Duplicate Rights in New Zealand

ARTICLE 30

(1) For the purpose of any claim to receive benefit under the legislation of New Zealand, whether by virtue of this Agreement or otherwise (other than benefit payable by virtue of Article 27 of this Agreement), 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.

(2) For the purpose of applying the provisions of paragraph (1) of this Article to any claim to receive benefit by virtue of this Agreement, the amount of any benefit which the claimant is entitled to receive under the legislation of the United Kingdom shall be deemed to include the amount of any pension which has been required, under the legislation of the United Kingdom, to be assured because the claimant was contracted out of the graduated pension scheme established under that legislation.

Overpayments

ARTICLE 31

Where a person has received any sum by way of benefit under the legislation of one country and it is found that he was not entitled to receive that sum but was entitled to receive benefit for the same period under the legislation of the other country, the sum so received shall be treated as having been paid on account of the benefit due under the legislation of the latter country.

PART VIII.—ADMINISTRATION

ARTICLE 32

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 33

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 IX.—TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 34

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

(2) Any contribution which a person has paid or had credited to him under the legislation of the United Kingdom before the date of 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.

(3) No provision of this Agreement shall diminish any rights which a person has acquired under the legislation of either country before the date of entry into force of this Agreement, whether by virtue of the former Agreement or otherwise.

ARTICLE 35

In the event of the termination of this 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 36

(1) This Agreement shall enter into force on a date to be agreed by Exchange of Letters between the Contracting Parties 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.

(2) Subject to the provisions of Article 34 of this Agreement, the former Agreement and the reciprocal arrangements on family benefits shall be terminated on the date of entry into force of this Agreement.

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

DONE at Wellington this 19th day of June 1969.

For the Government of New Zealand:

D. N. McKAY

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

IAN MACLENNAN

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 (set out in the Schedule) made between the Governments of the United Kingdom and of New Zealand in relation to the matters for which provision is made by the Family Allowances Acts (Northern Ireland) 1966 to 1969 and the National Insurance Acts (Northern Ireland) 1966 to 1969.