1960 No. 707

The National Insurance and Industrial Injuries (Republic of Ireland) Order, 1960

Made - - - - *8th April,* 1960

At the Court at Buckingham Palace, the 8th day of April, 1960

Present,

The Queen's Most Excellent Majesty in Council

Whereas at London on the twenty-ninth day of March, nineteen hundred and sixty, 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 First Schedule to this Order and is hereinafter referred to as "the Agreement") was signed on behalf of those Governments:

And Whereas by Article 4 of the Agreement it is provided that the Agreement shall have effect from the second day of May, 1960:

And Whereas the Agreement provides for the termination, on its coming into force, of an Agreement relating to Insurance and Workmen's Compensation which was made between the Minister of National Insurance and the Minister for Social Welfare of the Republic of Ireland on the twenty-eighth day of January, nineteen hundred and fifty-three and, so far as the same relates to Great Britain, has effect by virtue of the Order specified in the Second Schedule to this Order:

And Whereas by section 64 of the National Insurance Act, 1946(a), and section 85 of the National Insurance (Industrial Injuries) Act, 1946(b), it is provided that Her Majesty 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, Her Majesty, in pursuance of the said section 64 of the National Insurance Act, 1946, and the said section 85 of the National Insurance (Industrial Injuries) Act, 1946, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and interpretation

1.—(1) This Order may be cited as the National Insurance and Industrial Injuries (Republic of Ireland) Order, 1960.

(2) The Interpretation Act, 1889(c), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(a) 9 & 10 Geo. 6. c. 67. (b) 9 & 10 Geo. 6. c. 62. (c) 52 & 53 Vict. c. 63.

Modification of Acts

2. The provisions contained in the Agreement shall have full force and effect, so far as the same relate to Great Britain and provide for reciprocity with the Government of the Republic of Ireland in any matters specified in either subsection (1) of section 64 of the National Insurance Act, 1946, or subsection (1) of section 85 of the National Insurance (Industrial Injuries) Act, 1946; and the National Insurance Acts, 1946 to 1959, and the National Insurance (Industrial Injuries) Acts, 1946 to 1959, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

Revocation of Order

3. The Order specified in the Second Schedule to this Order is hereby revoked as from the 2nd May, 1960, but without prejudice to any right, privilege, obligation or liability acquired, accrued or incurred, thereunder.

W. G. Agnew.

FIRST 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.

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 sickness, maternity, unemployment, widowhood and orphanhood,

Have agreed as follows:—

PART I

DEFINITIONS AND GENERAL PROVISIONS

ARTICLE 1

(1) In this Agreement, unless the context otherwise requires—

"the Great Britain Act" means, according to the context, the National Insurance Act, 1946, or the National Insurance (Isle of Man) Act, 1948;

"the Industrial Injuries Act" means, according to the context, the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948;

"the Great Britain Acts" means, according to the context, the National Insurance Act, 1946, and the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance (Isle of Man) Act, 1948, and the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948;

"the Act of the Republic of Ireland" means the Social Welfare Act, 1952;

"the Acts of the Republic of Ireland" means the Social Welfare Act, 1952, and the Workmen's Compensation Act, 1934;

"competent authority" means, in relation to Great Britain, according to the context, the Minister of Pensions and National Insurance or the Isle of Man Board of Social Services and, in relation to the Republic of Ireland, the Minister for Social Welfare;

"contributions of the appropriate class" means contributions (whether under the Great Britain Act or the Act of the Republic of Ireland or under any enactment repealed by either of these Acts) having effect for the purposes, as the case may be, of sickness benefit or of maternity benefit;

"country" means Great Britain or the Republic of Ireland, as the case may require;

"Great Britain" and "the United Kingdom" include the Isle of Man;

" guardian's allowance " means guardian's allowance under the Great Britain Act or orphan's (contributory) allowance under the Act of the Republic of Ireland ;

" non-domiciled mariner " means for the purposes of the Great Britain Acts, a person employed on board any ship or vessel who neither is domiciled nor has a place of residence in the United Kingdom, and, for the purposes of the Acts of the Republic of Ireland, a person so employed who neither is domiciled nor has a place of residence in the Republic of Ireland ;

" radio officer " means a person to whom Part V of the Agreement applies who is employed on board any ship or vessel in connection with the radio apparatus thereof ;

" relevant contribution year " means the contribution year or other period of fifty-two or fifty-three weeks in which the contribution conditions for sickness benefit, maternity grant or maternity allowance, as the case may be, require a number of contributions to have been paid or credited ;

" sickness benefit " means, as the case may require, sickness benefit under the Great Britain Act or disability benefit under the Act of the Republic of Ireland ;

" the Great Britain Fund " means, according to the context, the National Insurance Fund or the Manx National Insurance Fund established under the Great Britain Act ;

" the Fund of the Republic of Ireland " means the Social Insurance Fund established under the Act of the Republic of Ireland ;

" widow's benefit " means widow's benefit under the Great Britain Act or widow's pension under any enactment repealed by that Act, or widow's (contributory) pension under the Act of the Republic of Ireland or any enactment repealed by that Act, and includes any allowance payable therewith in respect of a child.

(2) (*a*) References in this Agreement to the Act of a particular country shall be construed as references to the Great Britain Act or the Act of the Republic of Ireland, as the case may require.

(*b*) References in this Agreement to the Acts of a particular country shall be construed as references to the Great Britain Acts or the Acts of the Republic of Ireland, as the case may require.

(*c*) References in this Agreement to the Fund of a particular country shall be construed as references to the Great Britain Fund or the Fund of the Republic of Ireland, as the case may require.

(*d*) References in this Agreement to contributions paid by a person shall be construed as including references to contributions paid by an employer in respect or on behalf of that person, not being employers' contributions under the Great Britain Act.

(3) Subject to the provisions of paragraphs (4) and (5) of this Article, references in this Agreement to any enactment, order or regulation shall include references to such enactment, order or regulation as amended, modified, adapted, extended or supplemented by any subsequent enactment, order or regulation.

(4) The provisions of paragraph (3) of this Article shall not apply to any order which amends, modifies, adapts, extends or supplements the Great Britain Acts for the purpose of giving effect to any reciprocal agreement between the competent authorities of Great Britain, in so far as that order relates to unemployment benefit.

(5) The provisions of paragraph (3) of this Article shall apply, only if and to the extent that the Contracting Parties so agree, to any enactment, order or regulation which amends, modifies, adapts, extends or supplements the Acts of either country for the purpose of giving effect to any reciprocal agreement or arrangements on social security which one (or the other) Party or the competent authority of either country has made with a third Party or a competent authority outside the two countries.

ARTICLE 2

Nothing in this Agreement shall confer a right to double benefit.

ARTICLE 3

The competent authorities shall from time to time determine the procedure appropriate for the purposes of this Agreement and all matters of an incidental or supplementary nature which in their opinion are relevant for the purpose of giving effect thereto.

ARTICLE 4

This Agreement shall come into force on the 2nd day of May, 1960, 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—

(*a*) the Contracting Parties agree to terminate it; or

(*b*) either Party gives notice of termination in writing at least six months before the expiry of any such yearly period.

PART II

RESIDENTS OF ONE COUNTRY EMPLOYED IN THE OTHER

ARTICLE 5

(1) If a person—

(*a*) is ordinarily resident in one country; and

(*b*) is either employed in the other country in the government service of the first-mentioned country or temporarily employed in the other country in the service of an employer who is resident or has a place of business in the first-mentioned country; and

(*c*) has been engaged for that employment outside the other country;

then, in relation to that employment—

(i) the provisions of the Acts of the first-mentioned country which concern the payment of contributions shall apply to him as if he were employed in that country; and

(ii) the Acts of the other country shall not apply to him.

(2) For the purpose of applying the provisions of paragraph (1) of this Article, a person shall cease, unless the competent authorities otherwise agree in any particular case, to be treated as temporarily employed in a country if his employment in that country has lasted for as long as twelve months.

(3) No person shall be liable to pay contributions under the Acts of one country in respect of employment in the other country otherwise than in accordance with the provisions of paragraphs (1) and (2) of this Article.

(4) For the purpose of the provisions of the Great Britain Act which concern residence and persons abroad, a person shall be treated as if he had been liable to pay contributions in respect of an employed contributor's employment outside Great Britain in accordance with those provisions for any period for which he was liable to pay contributions in accordance with the provisions of paragraphs (1) and (2) of this Article.

ARTICLE 6

Where a person is employed in one country and those provisions of the Acts of the other country which concern the payment of contributions apply to that person in accordance with the provisions of Article 5—

(*a*) for the purpose of any claim to receive sickness benefit under those Acts, that person shall be treated as if he were in the other country;

(*b*) for the purpose of any claim by that person to receive a maternity grant or maternity allowance under those Acts, she shall be treated as if she were in the other country and, if she is confined in the first-mentioned country, as if she had been confined in the other country;

(*c*) for the purpose of any claim by that person's wife to receive a maternity grant under those Acts, shall shall be treated, if she is in, or confined in, the first-mentioned country, as if she were, respectively, in, or confined in, the other country;

(*d*) for the purpose of any claim, in respect of an industrial accident occurring or an industrial disease contracted in the course of such employment, to receive benefit under the Industrial Injuries Act, or weekly payments by way of compensation under the Workmen's Compensation Act, 1934, that person shall be treated as if the accident had occurred or the disease had been contracted in the other country, and, if that other country is Great Britain, as if that employment were insurable and as if he were in Great Britain.

PART III

MARRIAGE BENEFIT, SICKNESS BENEFIT AND MATERNITY BENEFIT

ARTICLE 7

(1) Subject to the provisions of paragraph (3) of this Article and those of Article 23, where a person insured under the Act of one country is in the other country, then (subject in a case to which Article 6 applies to the provisions of paragraph (2) of this Article) for the purpose of sickness benefit and maternity allowance—

(*a*) the provisions of the Act of the first-mentioned country shall not apply in his case; and

(*b*) in the application to him of the provisions of the Act of the other country, as may yield the higher rate of benefit, either

(i) no account shall be taken of insurance, contributions or benefit in the first-mentioned country; or

(ii) insurance, contributions of the appropriate class paid or credited and sickness benefit or maternity allowance paid or claimed in the first-mentioned country shall be treated as if they had been respectively insurance, contributions of the appropriate class paid or credited and sickness benefit or maternity allowance paid or claimed in that other country:

Provided that—

(*aa*) in the case of a person who has been insured under the Act of the Republic of Ireland and is in Great Britain unless and until not less than thirteen such contributions have been paid by him under the Great Britain Act in respect of contribution weeks since he last arrived in Great Britain, or unless not less than twenty-six such contributions have been paid by or credited to him thereunder in respect of the relevant contribution year, or unless the day in respect of which the benefit or allowance is claimed is in a period of interruption of employment under the Great Britain Act and he was before he last arrived in Great Britain entitled to sickness benefit or maternity allowance under that Act in respect of a day in that period, the rate at which any such benefit or allowance (including any increase) shall be payable by virtue of sub-paragraph (*b*) (ii) of this paragraph shall not exceed the rate at which it would (apart from any provision as to overlapping benefits) have been payable to him under the provisions of the Act of the Republic of Ireland if he had remained in that country and had fully satisfied the contribution conditions of that Act;

(*bb*) in the case of a person who has been insured under the Great Britain Act and is in the Republic of Ireland account may be taken by virtue of the said sub-paragraph (*b*) (ii) of insurance and contributions paid or credited in Great Britain before he attains the age of sixteen, but no sickness benefit shall be paid under the Act of the Republic of Ireland for any period before the expiry of twenty-six weeks after he attains that age;

(*cc*) where a person who is receiving sickness benefit in one country goes to the other country and continues without a break of more than six days to claim that benefit in that other country by virtue of the said sub-paragraph (*b*) (ii), then, until the beginning of the benefit year next following the benefit year applying to him in that other country on his arrival the contributions of the appropriate class paid by or credited to him in the

first-mentioned country (including any treated as so paid or credited by virtue of that sub-paragraph) in respect of the relevant contribution year applying on his departure shall be treated (to the exclusion of any other contributions) as if they had been contributions of the appropriate class paid by or credited to him in that other country in respect of the relevant contribution year applying in that other country;

(*dd*) where a woman goes from one country to the other country during the period for which she is entitled to receive a maternity allowance under the Act of the first-mentioned country, or would be so entitled if she had claimed that allowance, she shall be treated as if she had satisfied the contribution conditions for receiving a maternity allowance under the Act of the other country; and, for any period before an allowance becomes payable under the Act of that other country, she shall be treated for the purpose of her right to an allowance under the Act of the first-mentioned country as if she had remained in that country.

(2) In a case to which Article 6 applies the provisions of the foregoing paragraphs shall apply to a person as if he were in the country in which he is treated under that Article as being.

(3) A member of the Defence Forces of the Republic of Ireland who is insured under the Great Britain Act shall not be entitled to sickness benefit under that Act, and a member of the United Kingdom forces who is insured under the Act of the Republic of Ireland shall not be entitled to sickness benefit under that Act, in respect of any period during which he is a member of such forces.

ARTICLE 8

Where a woman insured under the Act of the Republic of Ireland marries in that country after being in Great Britain and she has paid not less than one hundred and fifty-six contributions under that Act since her entry into insurance, including not less than twenty-six such contributions paid in respect of weeks since she was last employed in Great Britain, then, for the purposes of marriage benefit under that Act, all contributions paid or credited in either country (other than contributions paid by her as a non-employed person under the Great Britain Act) shall be taken into account.

ARTICLE 9

For the purpose of any claim to receive a maternity grant under the Act of one country, a woman who is in, or is confined in, the other country shall be treated as if she were, respectively, in, or confined in, the first-mentioned country.

ARTICLE 10

(1) Where a woman is confined in one country and (apart from the provisions of this Article) no maternity grant is payable under the Act of either country, then (subject in a case to which Article 6 applies to the provisions of paragraph (2) of this Article), in determining whether she or her husband satisfies the relevant contribution conditions for a maternity grant under the Act of the country where she is confined, insurance and contributions of the appropriate class paid or credited in the other country shall be treated as if they had been respectively insurance and contributions of the appropriate class paid or credited in the first-mentioned country:

Provided that, where a maternity grant is payable under the Great Britain Act by virtue of this Article, its amount shall not exceed the amount of a maternity grant under the Act of the Republic of Ireland, and the allowance of the claim shall not confer any right to a home confinement grant.

(2) In a case to which Article 6 applies the provisions of the foregoing paragraph shall apply to a woman as if she were confined in the country in which she is treated under that Article as being at the time of her confinement.

ARTICLE 11

(1) For the purpose of any claim to receive sickness benefit under the Act of one country a person in that country who is incapable of work by reason

of an injury or disease in respect of which he is entitled to a payment under the Acts of the other country shall be treated as if that payment were a payment of equal amount under the Acts of the first-mentioned country.

(2) For the purpose of paragraph (1) of this Article, payment means a payment of benefit under the Industrial Injuries Act or a payment of Workmen's Compensation under the Workmen's Compensation Act, 1934, and, where a payment under the Acts of the Republic of Ireland is treated as if it were a payment under the Great Britain Acts, it shall be treated as if it were a payment of injury benefit.

(3) The amount of any workmen's compensation for any day shall be one-sixth of the amount of the compensation for the week in which that day occurs; and where the amount of the compensation for that week is not a multiple of sixpence it shall be treated as the next lower amount which is a multiple of sixpence.

PART IV

UNEMPLOYMENT BENEFIT

ARTICLE 12

None of the provisions of this Part of this Agreement shall apply to any person in the Isle of Man or to any contribution or benefit paid under the National Insurance (Isle of Man) Act, 1948.

ARTICLE 13

(1) Where a person who satisfies the contribution conditions applicable in his case for unemployment benefit under the Act of one country and has not exhausted his right to that benefit under that Act is in the other country and makes a claim for unemployment benefit under the Act of that other country at any time before he has satisfied the contribution conditions applicable in his case for that benefit under that Act or after he has exhausted his right to such benefit, then, provided that he satisfies the condition that he has had not less than twelve days of unemployment in a period of interruption of employment within the meaning of the Act of that other country, he shall, for the purpose of his right to receive unemployment benefit under that Act, be treated, subject to the provisions of paragraph (2) of this Article, as if the said conditions were satisfied, or as if he had not exhausted his right to such benefit, as the case may be.

(2) Where a person has been entitled in one country, by virtue of the provisions of paragraph (1) of this Article, to unemployment benefit for twenty-six days in the period commencing with the day in respect of which he was first so entitled, he shall not thereafter, by virtue of those provisions, be entitled to unemployment benefit in that country save in accordance with the provisions of Article 14.

(3) Nothing in this Article shall be construed as authorising or requiring contributions paid by any person under the Act of the first-mentioned country to be treated as contributions paid by that person under the Act of the other country.

ARTICLE 14

(1) Where a person has been entitled in one country to unemployment benefit for twenty-six days as mentioned in paragraph (2) of the foregoing Article, he shall not again be entitled to unemployment benefit in that country by virtue of that Article unless twenty-six contributions in respect of contribution weeks subsequent to the day in respect of which he was first so entitled have been paid by him under the Act of the other country, and upon his again becoming so entitled the provisions of this Part of this Agreement shall apply as if he had then become so entitled for the first time.

(2) For the purpose of applying the provisions of paragraph (1) of this Article, account shall be taken only of contributions paid by a person as an employed person under the Great Britain Act or of contributions paid under the Act of

the Republic of Ireland which are reckonable, in accordance with the provisions of paragraph 1 of the Fourth Schedule to that Act, for the purpose of a claim for unemployment benefit.

ARTICLE 15

(1) Where any person who has been entitled to unemployment benefit in the Republic of Ireland by virtue of Article 13 returns to Great Britain, there shall be disregarded, for the purpose of his right to receive unemployment benefit under the Great Britain Act, the last twenty-six contributions paid by him as an employed person under that Act before the day in respect of which he first became so entitled.

(2) Where any person who has been entitled to unemployment benefit in Great Britain by virtue of Article 13 returns to the Republic of Ireland and makes a claim for unemployment benefit under the Act of the Republic of Ireland, the number of days of such benefit (not being benefit payable by virtue of Article 13) to which such person may be entitled as a result of such claim shall be reduced by the number of days of unemployment benefit which such person obtained in Great Britain by virtue of that Article.

ARTICLE 16

(1) Where a person who has been entitled to unemployment benefit in the Republic of Ireland by virtue of Article 13 returns to Great Britain—

(*a*) that person shall not be entitled to unemployment benefit under the Great Britain Act (otherwise than in accordance with the provisions of Article 13) unless twenty-six contributions as an employed person have been paid by him under the Great Britain Act in respect of the period between the day on which he returned to Great Britain and the day for which benefit is claimed ; and

(*b*) for the purpose of the contribution conditions for unemployment benefit under the Great Britain Act, contributions as an employed person shall be credited to him for the period between the beginning of the contribution year last preceding that in which he returned to Great Britain and the day on which he returned, and any contributions paid or credited in his case, other than contributions credited by virtue of this paragraph, in respect of that period shall be disregarded ; and

(*c*) for the purpose of any regulations for the time being in force under the Great Britain Act relating to qualification for additional days of unemployment benefit, no account shall be taken of any contributions which are to be disregarded by reason of the provisions of Article 15.

(2) The provisions of sub-paragraph (*b*) of the preceding paragraph shall also apply in the case of a person insured under the Act of the Republic of Ireland who returns to Great Britain after having been absent therefrom in the Republic of Ireland for a period of not less than twenty-eight days, if twenty-six contributions as an employed person have been paid by him under the Great Britain Act in respect of the period between the day on which he returned to Great Britain and the day for which benefit is claimed.

ARTICLE 17

For the purpose of the right of any person to receive in respect of a child or adult dependant an increase of unemployment benefit under the Act of either country such child or adult dependant shall, if in the other country, be treated as if he were in the country in which the Act in question is in force.

PART V

INSURANCE AND WORKMEN'S COMPENSATION FOR MASTERS AND MEMBERS OF THE CREWS OF SHIPS AND VESSELS

ARTICLE 18

The provisions of this Part of this Agreement shall apply as respects any person who is employed under a contract of service as master or a member of the crew of any ship or vessel.

ARTICLE 19

For the purposes of the Great Britain Acts a person shall not be treated as a non-domiciled mariner if he is domiciled or has a place of residence in the Republic of Ireland and, for the purposes of the Acts of the Republic of Ireland, a person shall, notwithstanding the Social Welfare (Modifications of Insurance) Regulations, 1956, not be so treated if he is domiciled or has a place of residence in the United Kingdom.

ARTICLE 20

Where any person, to whom this Part of this Agreement applies, is employed on board a ship or vessel whose port of registry is a port in one country and of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in the other country, then, subject to the provisions of Article 21 in respect of that employment—

(*a*) if that person is ordinarily resident in the United Kingdom, the provisions of the Great Britain Acts shall, and those of the Acts of the Republic of Ireland shall not, apply to him ;

(*b*) if that person is ordinarily resident in the Republic of Ireland, the provisions of the Acts of the Republic of Ireland shall, and those of the Great Britain Acts shall not, apply to him ; and

(*c*) if that person is not ordinarily resident in the United Kingdom or the Republic of Ireland, the provisions of the Acts of the country of the port of registry shall (in so far as they are applicable), and those of the Acts of the other country shall not, apply to him.

ARTICLE 21

Where, but for this Article, the provisions of the Acts of one country would be of application to a radio officer who is paid remuneration in respect of that employment by some person (other than the owner of the ship or vessel) having his principal place of business in the other country, then, in respect of that employment, the provisions of the Acts of the first-mentioned country shall not apply to that radio officer, and he shall be subject (in so far as they are applicable) to the provisions of the Acts of the other country, so, however, that for the purposes thereof the said person by whom the remuneration is paid shall be treated as his employer.

ARTICLE 22

Where a person to whom this Part of this Agreement applies (other than a radio officer to whom the immediately preceding Article applies or a non-domiciled mariner) is employed on board a ship or vessel engaged in regular trade between the Republic of Ireland and the United Kingdom, being a ship or vessel—

(*a*) whose port of registry is a port in Great Britain, or, except where the owner (or managing owner if there is more than one owner) resides or has his principal place of business in Northern Ireland, in the Republic of Ireland ; or

(*b*) of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in either country and whose port of registry is not a port in Northern Ireland ;

then, in respect of that employment—

(i) if that person is ordinarily resident in the United Kingdom, the provisions of the Great Britain Acts shall, and those of the Acts of the Republic of Ireland shall not, apply, and

(ii) if that person is ordinarily resident in the Republic of Ireland, the provisions of the Acts of the Republic of Ireland shall, and those of the Great Britain Acts shall not, apply.

ARTICLE 23

Where immediately before he becomes incapable of work a person is in employment on board a ship or vessel which is employment to which the provisions of the Acts of one country apply by virtue of this Part of this Agreement, he

shall, for the purpose of any right to sickness benefit, be treated, while he remains so incapable, as if he were in that country, notwithstanding that he may be in or go to the other country.

ARTICLE 24

If the provisions of the Acts of one of the two countries apply by virtue of Article 20 or 22 to a person employed on board a ship or vessel whose port of registry is not in that country, then, for the purpose of any claim to receive benefit, those provisions shall apply as if that ship or vessel were a ship or vessel whose port of registry was in that country.

PART VI

WIDOW'S BENEFIT

ARTICLE 25

(1) While a widow is in, or is resident in, one country, widow's benefit under the Act of the other country may be paid to her as if she were not, as the case may be, absent from, or resident outside, that other country:

Provided that, in the case of widow's benefit under the Great Britain Act, the rate of widow's benefit payable as if the widow were not so resident shall not exceed the rate of such benefit ascertained in accordance with the legislation which was in force in Great Britain at the date of her husband's death, or at the date when she was last resident in that country (whichever is the later) as it applied at that date to persons residing in that country.

(2) The presence, residence or birth of a child in one country (whether before or after this Agreement has effect) shall, for the purpose of determining the right of any person to receive widow's benefit under the Act of the other country, be treated as if it were or had been presence, residence or birth, as the case may require, in that other country:

Provided that, in the case of widow's benefit under the Great Britain Act, this paragraph shall apply only if the widow is by reason thereof entitled, in respect of a period after this Agreement has effect, to a widowed mother's allowance or to an increase of such allowance or of a widow's allowance in respect of a child.

PART VII

GUARDIANS' ALLOWANCES

ARTICLE 26

(1) Subject to the following provisions of this Article, for the purpose of the right of a person to receive a guardian's allowance in respect of a child under the Act of one country, the presence or residence of that person or of that child or of that person and that child in the other country shall be treated as if it were presence or residence, as the case may be, in the first-mentioned country.

(2) Where, but for this paragraph, guardians' allowances under the Acts of both countries would be payable in respect of the same child and that child is ordinarily resident in one country, only an allowance under the Act of that country shall be payable.

(3) Except in a case to which the last preceding paragraph applies or in the case of an orphan's pension or child's allowance under the Great Britain Act, a person shall be disqualified for receiving a guardian's allowance under the Act of one country in respect of a child who is ordinarily resident in the other country, unless the parent or other person by virtue of whose insurance the allowance is payable had paid at least one hundred and fifty-six contributions as an insured person under that Act, if it is the Great Britain Act, or twenty-six such contributions if it is the Act of the Republic of Ireland.

(4) A guardian's allowance payable under the Great Britain Act in respect of a child in the Republic of Ireland shall not be paid at a rate exceeding the rate of a guardian's allowance payable under the Act of the Republic of Ireland unless the child is only temporarily absent from Great Britain.

PART VIII

Miscellaneous Provisions

Article 27

(1) For the purpose of the right of any person to receive, in respect of a child or an adult dependant, an increase of sickness benefit or maternity allowance under the Act of either country, an increase of industrial injury benefit under the Industrial Injuries Act, or any allowance additional to weekly payment by way of compensation under the Workmen's Compensation Act, 1934, such child or adult dependant shall, if in the other country, be treated as if he were in the country in which the Act in question is in force.

(2) For the purpose of the right of any person to receive an increase of benefit in respect of a child, widow's benefit or guardian's allowance—

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

(*b*) a child in Great Britain shall not be treated under the Act of the Republic of Ireland as a qualified child as respects any period during which he is detained in a remand home or an approved school.

Article 28

Such financial adjustments between the Great Britain Fund and the Fund of the Republic of Ireland as may be agreed from time to time in connection with this Agreement shall be made by the competent authorities.

Article 29

The existing Agreements made by the Minister for Social Welfare with the Minister of National Insurance on the 28th January, 1953, and with the Governor of the Isle of Man on the 9th September, 1954, shall be terminated on the coming into force of this Agreement:

Provided that—

(*a*) in relation to a person in whose case the existing Agreement between the Minister of National Insurance and the Minister for Social Welfare has applied—

(i) the references in Part IV of this Agreement to unemployment benefit by virtue of Article 13 of this Agreement shall include references to such benefit by virtue of Article 14 of that existing Agreement and the references in the said Part IV to the day in respect of which a person was first entitled to unemployment benefit by virtue of the said Article 13 shall, in relation to any period before the coming into operation of this Agreement, be construed as referring to the date in respect of which a transfer was made in respect of him under Article 15 of that existing Agreement; and

(ii) the reference in the proviso to paragraph (2) of Article 25 of this Agreement to a period after this Agreement has effect shall include a reference to a period after that existing Agreement had effect;

(*b*) where a person in one country is receiving sickness benefit or maternity allowance under the Act of the other country when this Agreement comes into force, that person shall, during any period during which he is in the first-mentioned country and would, but for this Agreement, have continued without a break to be entitled to that benefit or allowance under that Act, be treated as if this Agreement had not been made;

(*c*) where a person other than one to whom proviso (*b*) of this Article applies is on the date when this Agreement comes into force receiving sickness benefit by virtue of the Agreements made by the Minister for Social Welfare with the Minister of National Insurance on the 28th January, 1953, and with the Governor of the Isle of Man on the 9th September, 1954, the provisions of this Agreement shall apply provided that the contribution year prescribed in his case under the provisions of the former Agreements shall, where this is to his advantage, continue to apply for such period as it would have applied under those provisions;

(*d*) instead of any sums which, before the coming into force of this Agreement, have, in accordance with the provisions of paragraphs (1) and (2) of Article 15 of the existing Agreement between the Minister of National Insurance and the Minister for Social Welfare, become due to be transferred from the Fund of one country to the Fund of the other country, there shall be so transferred such sum as may be agreed by the competent authorities.

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

Done in duplicate at London, this 29th day of March, nineteen hundred and sixty.

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

John Boyd-Carpenter.

For the Government of the Republic of Ireland:

Seán MacEntee.

SECOND SCHEDULE

Order Revoked

The National Insurance and Industrial Injuries (Reciprocal Agreement with the Republic of Ireland) Order, 1953(a), made at the Court at Buckingham Palace, the 11th day of March, 1953.

EXPLANATORY NOTE

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

This Order gives effect in Great Britain to the Agreement (set out in the First 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, 1946 to 1959, and the National Insurance (Industrial Injuries) Acts, 1946 to 1959.

(a) S.I. 1953/395 (1953 I, p. 1407).