1967 No. 817

SOCIAL SECURITY

The National Insurance and Industrial Injuries (Jersey and Guernsey) Order 1967

Made - - - - *24th May* 1967

At the Court at Buckingham Palace, the 24th day of May 1967

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 105 of the National Insurance Act 1965(a), and section 84 of the National Insurance (Industrial Injuries) Act 1965(b), 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 (Jersey and Guernsey) Order 1967.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(c) shall apply for the purpose of the interpretation of this Order as they apply for the purpose of the interpretation of an Act of Parliament.

Modification of Acts

2. The provisions contained in the Agreement on Social Security set out in the Schedule to this Order shall have full force and effect, so far as the same relate to England, Wales and Scotland, and provide for reciprocity in any matters specified in section 105(1) of the National Insurance Act 1965, or section 84(1) of the National Insurance (Industrial Injuries) Act 1965 (which subsections relate to reciprocity with other countries); and the National Insurance Acts 1965 and 1966, and the National Insurance (Industrial Injuries) Acts 1965 to 1967, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

W. G. Agnew.

(a) 1965 c. 51. (b) 1965 c. 52. (c) 1889 c. 63.

SCHEDULE

SUPPLEMENTARY AGREEMENT ON SOCIAL SECURITY BETWEEN THE MINISTER OF SOCIAL SECURITY, THE MINISTRY OF HEALTH AND SOCIAL SERVICES FOR NORTHERN IRELAND AND THE LIEUTENANT-GOVERNOR OF THE ISLE OF MAN, WITH THE ADVICE AND CONSENT OF THE ISLE OF MAN BOARD OF SOCIAL SERVICES CONSTITUTED UNDER THE ISLE OF MAN BOARD OF SOCIAL SERVICES ACT 1948, OF THE FIRST PART, THE SOCIAL SECURITY COMMITTEE, WITH THE CONSENT OF THE STATES OF JERSEY, OF THE SECOND PART, AND THE STATES INSURANCE AUTHORITY, WITH THE CONSENT OF THE STATES OF GUERNSEY, OF THE THIRD PART.

ARTICLE 1

For the purpose of this Agreement, the expression "the Principal Agreement" means the Agreement on Social Security which was signed on behalf of the Contracting Parties in March 1966.

ARTICLE 2

Article 1 of the Principal Agreement shall be amended by omitting paragraph (*m*) and substituting the following paragraphs:—

"(*m*) "standard rate of benefit" means, in relation to any country, the rate of retirement pension or widow's benefit, as the case may be, which would be payable under the legislation of that country, if all the conditions for that benefit were fully satisfied;

(*mm*) "retirement pension" means, in relation to Jersey, an old age pension payable under the legislation of Jersey;".

ARTICLE 3

Article 3 of the Principal Agreement shall be amended by omitting paragraph (3) and substituting the following paragraph:—

"(3) The competent authorities of any two countries or of all three countries may provide by agreement—

(*a*) that paragraph (1) of this Article shall not apply in particular cases;

(*b*) that paragraph (2) of this Article shall apply to persons in the service of any public corporation of one country, being a public corporation designated by them, in the same way as it applies to persons in the Government service of that country."

ARTICLE 4

Paragraph (9) of Article 3 of the Principal Agreement shall be amended by omitting the word "Article" where that word first occurs and substituting the word "Agreement".

ARTICLE 5

Paragraph (2) of Article 5 of the Principal Agreement shall be amended by inserting the words "other than widow's basic pension" after the words "any widow's benefit".

ARTICLE 6

Paragraph (1) of Article 6 of the Principal Agreement shall be amended by inserting the words "or would, but for his incapacity for work, so pay contributions," after the words "the legislation of that country".

ARTICLE 7

Article 11 of the Principal Agreement shall be amended by substituting a colon for the full stop at the end of the Article and adding the following proviso:—

"Provided that, if the effect of this Article would be to reduce the total amount of benefit, payable to a woman under the legislation of the countries concerned, to less than it was before the widow's benefit payable to her under the legislation of one or more of those countries was replaced by a retirement pension

or retirement pensions, then the Article shall not apply in her case, but the retirement pension or retirement pensions payable to her shall be paid at the rate or rates at which widow's benefit would have been payable if her widow's benefit had not been replaced by a retirement pension or retirement pensions."

ARTICLE 8

Article 12 of the Principal Agreement shall be amended by omitting the proviso at the end of paragraph (1) and substituting the following:—

"Provided that—

(*a*) this paragraph shall not apply to any contributions which an insured person has paid under the legislation of any country for any period after he reaches pensionable age as defined in that legislation; and

(*b*) if the insured person is a woman to whom Article 11 of this Agreement is applicable, that Article shall be applied before this paragraph is applied."

ARTICLE 9

Article 13 of the Principal Agreement shall be omitted and in its place the following two Articles shall be substituted:—

"ARTICLE 13

(1) Subject to the provisions of paragraph (2) of this Article, a woman shall not be entitled to receive for the same period both—

(*a*) a retirement pension payable by virtue of her own insurance under the legislation of one country; and

(*b*) under the legislation of another country, widow's benefit, or a retirement pension payable by virtue of her husband's insurance, or a retirement pension payable by virtue of her own insurance but based wholly or partly on her husband's record of contributions.

(2) If a woman was married before 1st June 1967—

(*a*) paragraph (1) of this Article shall not apply to her; but

(*b*) subject to the provisions of paragraphs (3) and (4) of this Article, for the purpose of calculating the yearly average of the contributions which she has paid or had credited to her under the legislation of one country, any contributions which she has paid or had credited to her for any period under that legislation shall be disregarded if, for the same period, under the legislation of another country, the husband has paid contributions or had contributions credited to him, and she is receiving, under the legislation of the latter country, widow's benefit or a retirement pension payable by virtue of the husband's insurance or a retirement pension payable by virtue of her own insurance but based wholly or partly on the husband's record of contributions.

(3) Where a man and a woman were married before 4th April 1966 and, immediately before 4th January 1965, one of them was insured under the legislation of Guernsey and had paid 156 contributions under that legislation, and the other had paid 156 contributions under the legislation of another country, the provisions of sub-paragraph (*b*) of paragraph (2) of this Article shall not apply to the woman.

(4) If a woman was married before 4th April 1966 and paragraph (3) of this Article does not apply to her, sub-paragraph (*b*) of paragraph (2) of this Article shall apply to her only in relation to any period after 4th April 1966."

"ARTICLE 13A

Where a person was insured under the legislation of Guernsey at any time before 4th January 1965 and the number of contributions which he has paid or had credited to him under the legislation of any country, or under the legislation of any two

countries combined, or under the legislation of all three countries combined, for the contribution year which includes the week immediately before 4th January 1965 is not less than 50, he shall be treated, if it is to his advantage, as if he had been insured under the legislation of Guernsey immediately before 4th January 1965, but not so as to affect his date of entry into insurance under the legislation of the United Kingdom or Jersey, or to enable him to satisfy the conditions set out in sub-paragraph (*b*) of paragraph (2) of Article 12 of this Agreement, or of paragraph (3) of Article 13 or of paragraph (*a*) of the proviso to paragraph (2) of Article 20."

ARTICLE 10

Paragraph (2) of Article 14 of the Principal Agreement shall be amended by inserting the words "which are taken into account for the purpose of calculating the yearly average of contributions" after the words "if the number of contributions" at the beginning of sub-paragraph (*e*) of that paragraph.

ARTICLE 11

Paragraph (3) of Article 14 of the Principal Agreement shall be amended by inserting the words "or credited" after the word "paid" in sub-paragraph (*a*) of that paragraph.

ARTICLE 12

Article 14 of the Principal Agreement shall be amended by omitting paragraphs (4) and (5) and substituting the following paragraphs:—

"(4) If a retirement pension or widow's benefit has been awarded under the legislation of any country by virtue of this Article or otherwise, nothing in this Article shall cause the rate of that benefit to be determined afresh unless the beneficiary subsequently qualifies for a retirement pension or widow's benefit under the legislation of another country by virtue of this Article.

(5) Where, in accordance with the provisions of this Article, a person is entitled to receive retirement pensions or widow's benefit under the legislation of all three countries, and the sum of these benefits is less than the sum of the benefits which would have been payable to him under the legislation of two of these countries if the provisions of this Article had not been applied in his case, he shall be entitled to receive, under the legislation under which the greater of those two benefits would have been so payable, the amount by which the former sum is less than the latter.

(6) In any case where the provisions of paragraph (5) of this Article do not apply and where, in accordance with the provisions of this Article, a person is entitled to receive retirement pensions or widow's benefit under the legislation of two countries or of all three countries, and the sum of these benefits is less than the benefit which would have been payable to him under the legislation of one of these countries if the provisions of this Article had not been applied in his case, he shall be entitled to receive under that legislation the amount by which that sum is less than that benefit."

ARTICLE 13

After Article 14 of the Principal Agreement the following new Article shall be inserted:—

"ARTICLE 14A

(1) If an insured person is not entitled to receive a retirement pension either under the legislation of the United Kingdom or under the legislation of Guernsey but would be entitled, either by virtue of the provisions of Article 14 of this Agreement or otherwise, to receive retirement pensions under the legislation of both these countries if he had retired from regular employment, then, for the purpose of those provisions of the legislation of one of these countries which concern the payment of unemployment benefit and sickness benefit to insured persons who are over pensionable age, the rate at which a retirement pension would be payable to him under that legislation, if he had retired, shall be deemed to include the rate at which a retirement pension would be payable to him under the legislation of the other country.

(2) If an insured person is not entitled to receive a retirement pension under the legislation of any country but would be entitled, by virtue of the provisions of Article 14 of this Agreement, to receive retirement pensions under the legislation of Jersey and under the legislation of one or both of the other two countries if he had retired from regular employment, then, for the purpose of those provisions of the legislation of either of the other two countries which concern the payment of unemployment benefit and sickness benefit to insured persons who are over pensionable age, the rate at which a retirement pension would be payable to him under that legislation, if he had retired, shall be deemed to include the rate at which a retirement pension would be payable to him under the legislation of Jersey."

ARTICLE 14

Article 20 of the Principal Agreement shall be amended by substituting a colon for the full stop at the end of paragraph (2) and adding the following proviso:—

"Provided that this paragraph shall not apply—

(*a*) in any case where one of the countries concerned is Guernsey and the person claiming the increase of benefit is a retirement pensioner claiming in respect of his wife who is receiving a retirement pension on her own insurance, if they were married before 4th April 1966 and, immediately before 4th January 1965, one of them was insured under the legislation of Guernsey and had paid 156 contributions under that legislation, and the other had paid 156 contributions under the legislation of the other country; or

(*b*) in any case where a woman is receiving a retirement pension on her husband's insurance under the legislation of the United Kingdom or Jersey, and he is claiming increase of retirement pension in respect of her under the legislation of Guernsey."

ARTICLE 15

Paragraph (4) of Article 20 of the Principal Agreement shall be amended by omitting sub-paragraph (*b*) (including the proviso at the end of sub-paragraph (1) and substituting the following:—

"(*b*) the benefit payable under the legislation of the country specified in paragraph (1) of this Article shall be treated, for the purpose of any provisions of that legislation which concern overlapping benefits, and, if the countries concerned are the United Kingdom and Guernsey, and those provisions of the legislation of each country which concern the reduction of the rate of benefit on account of earnings would be applicable, for the purpose of the last-mentioned provisions, as if it were increased by the amount of benefit payable under the legislation of the other country, and any corresponding provisions of the legislation of the latter country shall not apply."

ARTICLE 16

Article 21 of the Principal Agreement shall be amended by omitting paragraph (1) and substituting the following paragraph:—

"(1) No provision of the legislation of Guernsey which concerns the reduction of the rate of widow's benefit or retirement pension on account of earnings shall apply to any widow who is gainfully occupied in the United Kingdom or Jersey."

ARTICLE 17

This Agreement shall enter into force on 1st June 1967 and shall be read as one with the Principal Agreement.

Given under the Official Seal of the Minister of Social Security this 18th day of May 1967.

(L.S.)

Margaret Herbison,
Minister of Social Security.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 15th day of May 1967.

(L.S.)

Wm. J. Morgan,
Minister of Health and Social Services.

Given under the hand of the Lieutenant-Governor of the Isle of Man this 17th day of May 1967.

P. H. G. Stallard,
Lieutenant-Governor.

The consent of the Isle of Man Board of Social Services is hereby given to this Agreement.

J. C. Nivison,
Chairman, Isle of Man Board of Social Services.

Signed on behalf of the Social Security Committee this 11th day of May 1967 and authorised by Act of the States of Jersey dated the 10th day of May 1967.

A. D. Le Brocq,
Greffier of the States.

Signed on behalf of the States of Guernsey by the President of the States Insurance Authority this 13th day of May 1967.

A. Quevatre,
President, States Insurance Authority.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order gives effect in England, Wales and Scotland to the Agreement (set out in the Schedule) made between the Minister of Social Security, the Ministry of Health and Social Services for Northern Ireland and the Lieutenant-Governor of the Isle of Man, with the advice and consent of the Isle of Man Board of Social Services, of the first part, the Social Security Committee, with the consent of the States of Jersey, of the second part and the States Insurance Authority, with the consent of the States of Guernsey, of the third part, in so far as it relates to matters for which provision is made by the National Insurance Acts 1965 and 1966 and the National Insurance (Industrial Injuries) Acts 1965 to 1967. The Agreement amends an Agreement signed in March 1966 on behalf of the same parties (see S.I. 1966/402; 1966 I, p. 891).