STATUTORY INSTRUMENTS

1977 No. 592

SOCIAL SECURITY

The Child Benefit (Guernsey) Order 1977

Made - - - - 30*th March* 1977

Coming into Operation 4*th April* 1977

At the Court of Saint James, the 30th day of March 1977

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 3rd day of February 1977, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorised thereto by the said Letters Patent, and in pursuance of section 15 of the Child Benefit Act 1975(**a**) and of all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Child Benefit (Guernsey) Order 1977 and shall come into operation on 4th April 1977.

(2) Any reference in this Order to any provision made by, or contained in, any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**b**) shall apply for the purposes of the interpretation of this Order as they apply for the purposes of the interpretation of an Act of Parliament.

Modification of the Child Benefit Act 1975 *and certain regulations*

2. Part I of the Child Benefit Act 1975 and regulations made under that Part shall be modified in their application to cases affected by the Agreement set out in the Schedule to this Order to such extent as may be necessary to give effect to provisions of that Agreement relating to payments for purposes similar or comparable to the purposes of that Part.

N. E. Leigh,
Clerk of the Privy Council.

(**a**) 1975 c. 61.

(**b**) 1889 c. 63.

SCHEDULE *Article* 2

AGREEMENT ON FAMILY ALLOWANCES BETWEEN THE SECRETARY OF STATE FOR SOCIAL SERVICES, THE DEPARTMENT 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 SECURITY CONSTITUTED UNDER THE ISLE OF MAN BOARD OF SOCIAL SECURITY ACT 1970, OF THE FIRST PART, AND THE STATES INSURANCE AUTHORITY, WITH THE CONSENT OF THE STATES OF GUERNSEY, OF THE SECOND PART.

PART I: DEFINITIONS AND SCOPE

ARTICLE 1

For the purpose of this Agreement, unless the context otherwise requires—

(*a*) "Party" means, the United Kingdom of Great Britain and Northern Ireland and also the Isle of Man, or Guernsey, as the case may require;

(*b*) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and also the Isle of Man and, in relation to Guernsey, the Islands of Guernsey, Alderney, Herm and Jethou;

(*c*) "competent authority" means, in relation to the territory of the United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland or the Isle of Man Board of Social Security, as the case may require, and, in relation to Guernsey, the States Insurance Authority;

(*d*) "legislation" means the legislation specified in Article 2 of this Agreement which is in force in the territory of one (or the other) Party or in any part of that territory;

(*e*) "family allowance" means, in relation to the territory of the United Kingdom, child benefit payable under the legislation of that Party;

(*f*) other expressions have the meanings respectively assigned to them in the legislation of the territory of the United Kingdom or Guernsey, as the case may require.

ARTICLE 2

(1) The provisions of this Agreement shall apply—

(*a*) in relation to the territory of the United Kingdom, to:—

the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as applied to the Isle of Man by the Social Security Legislation (Application) (Child Benefit) Order 1976, an order made by virtue of section 1 of the Social Security Legislation (Application) Act 1974 (an Act of Tynwald);

(*b*) in relation to the territory of Guernsey, to:—

the Family Allowances (Guernsey) Law 1950.

(2) Subject to the provisions of paragraph (3) of this Article, this Agreement shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) This Agreement shall not apply to any agreement on family allowances which either Party has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph (1) of this Article for the purposes of giving effect to such an agreement.

PART II: GENERAL PROVISIONS

ARTICLE 3

(1) For the purpose of any claim for family allowance under the legislation of one Party, a person who either—

(*a*) has moved his place of permanent residence from the territory of the other Party to the territory of the former Party; or

(*b*) has been temporarily resident in the territory of the former Party for a continuous period of not less than 26 weeks or a period of not less than 183 consecutive days in the period immediately preceding the date of claim,

shall be treated as if any period of residence or presence, as the case may be, completed by him in the territory of the other Party were a period of residence or presence, as the case may be, completed by him in the territory of the former Party.

(2) For the purpose of any claim for family allowance under the legislation of Guernsey, a person whose place of birth is in the territory of the United Kingdom shall be treated as if his place of birth were in the territory of Guernsey.

(3) Where, but for the provisions of this paragraph, family allowance would be payable for the same period in respect of the same child—

(*a*) under the legislation of both Parties by virtue of this Agreement; or

(*b*) under the legislation of one Party by virtue of this Agreement and under the legislation of the other Party otherwise than by virtue of this Agreement,

family allowance shall be payable only under the legislation of the Party in whose territory the child is ordinarily resident.

(4) Where, but for the provisions of this paragraph, family allowance would be payable for the same period in respect of the same child under the legislation of both Parties otherwise than by virtue of this Agreement, payment shall be made only by the Party under whose legislation the amount of the allowance is the greater.

(5) Where but for the provisions of this paragraph family allowance would be payable in respect of a child under the legislation of one Party and account is taken of the same child for the purposes of entitlement to family allowance for the same period under the legislation of the other Party, whether by virtue of this Agreement or otherwise, account shall be taken of that child only under the legislation of the former Party.

PART III: MISCELLANEOUS PROVISIONS

ARTICLE 4

(1) Any overpayment which is recoverable by deduction from family allowance under the legislation of one Party may be recovered by deduction from family allowance under the legislation of the other Party as if the overpayment had been under the legislation of the latter Party.

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

(3) Any claim, notice or appeal which should, for the purposes of the legislation of one Party, have been submitted within a prescribed period to the competent authority of that Party, shall be treated as if it had been submitted to that authority, if it is submitted within the same period to the competent authority of the other Party.

(4) In any case to which the provisions of paragraph (3) of this Article apply, the competent authority to which the claim, notice or appeal has been submitted shall transmit it without delay to the competent authority of the other Party.

ARTICLE 5

(1) The competent authorities shall make such financial and administrative arrangements as may appear to them necessary for the purpose of giving effect to this Agreement.

(2) The competent authorities shall assist one another on any matter relating to the application of this Agreement as if the matter were one affecting the application of their own legislation.

PART IV: FINAL PROVISIONS

ARTICLE 6

(1) Upon the entry into force of this Agreement the Memoranda of Reciprocal Arrangements relating to Family Allowances made between—

(*a*) the Minister of National Insurance with the consent of the Treasury, of the one part, and the States Insurance Authority, with the consent of the States of Guernsey of the other part on 25th June 1951 and on 28th August 1952; and

(*b*) the Ministry of Labour and National Insurance for Northern Ireland with the consent of the Ministry of Finance for Northern Ireland, of the one part, and the States Insurance Authority with the consent of the States of Guernsey, of the other part on 1st October 1951; and

(*c*) the States Insurance Authority with the consent of the States of Guernsey, of the one part, and the Lieutenant-Governor of the Isle of Man with the advice and consent of the Isle of Man Board of Social Security, of the other part on 22nd March 1952,

shall be terminated and shall be replaced by this Agreement.

(2) Notwithstanding the provisions of paragraph (1) of this Article any claim for family allowance made or any question relating thereto raised in respect of a period before the date of entry into force of this Agreement shall be determined in accordance with the provisions of the Memoranda of Reciprocal Arrangements referred to in paragraph (1) of this Article.

(3) Any right to family allowance acquired by a person in accordance with the provisions of the former Memoranda of Reciprocal Arrangements referred to in paragraph (1) of this Article shall be maintained, and any rights in course of acquisition under those Memoranda shall be determined in accordance with the provisions of this Agreement.

(4) This Agreement shall enter into force on 4th April 1977 and shall remain in force for an indefinite period. Either Party may denounce it by giving six months notice in writing to the other.

Signed, on 23rd March 1977.

David Ennals,
Secretary of State for Social Services.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland this 25th day of March 1977.

(L.S.)

N. Dugdale,
Secretary.

Given under the hand of the Lieutenant-Governor of the Isle of Man this 28th day of March 1977.

Sir John Paul,
Lieutenant-Governor.

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

Noel Q. Cringle,
Chairman, Isle of Man
Board of Social Security.

Signed on behalf of the States of Guernsey by the President of the States Insurance Authority this 25th day of March 1977.

E. H. Bodman,
President States
Insurance Authority.

EXPLANATORY NOTE

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

This Order makes provision for modification of Part I of the Child Benefit Act 1975 and regulations made under that Part so as to give effect to the agreement to provide for reciprocity on child benefit and family allowances (set out in the Schedule) made between the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland and the Lieutenant-Governor of the Isle of Man, and the States Insurance Authority, with the consent of the States of Guernsey.

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