(*b*) by reason of being temporarily absent from Great Britain (not being in the Isle of Man or the Channel Islands) for the specific purpose of being treated for incapacity which commenced before he left Great Britain, during such period as the Minister may allow, having regard to the particular circumstances of the case.

(2) A person shall not be disqualified for receiving widow's benefit, child's special allowance, a guardian's allowance or a retirement pension by reason of being absent from Great Britain.

(3) *A husband or wife shall not be disqualified for receiving any increase (where payable) of benefit in respect of his or her spouse by reason of the spouse being absent from Great Britain, provided the spouse is residing with the husband or wife, as the case may be.*

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Residence and Persons Abroad) Regulations, 1948, by extending the right to pay contributions as a non-employed person in respect of an employed contributor's employment abroad and to have such contributions treated as contributions as an employed person. They provide that the provisions of those regulations which postpone payment of a person's benefit, including arrears of benefit due to him before he goes abroad, until he returns to Great Britain shall cease to have effect. They also provide that in certain cases an increase of benefit may be paid in respect of a spouse who is abroad.

The preliminary draft of these Regulations was submitted to the National Insurance Advisory Committee in accordance with section 77 of the National Insurance Act, 1946, and their report thereon, dated the 25th April, 1958, is contained in House of Commons Paper No. 230 (Session 1957-58) published by Her Majesty's Stationery Office.

RECIPROCAL AGREEMENTS

1958 No. 422

The Family Allowances and National Insurance (Australia) Order, 1958

Made - - - - 14*th March*, 1958

At the Court at Buckingham Palace, the 14th day of March, 1958

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Canberra on the twenty-ninth day of January, nineteen hundred and fifty-eight, an Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of Australia on social security (which Agreement is set out in the Schedule hereto) was signed on behalf of those Governments:

And Whereas by Article 35 of the Agreement it was provided that the Agreement should enter into force on the 1st April, 1958:

And Whereas by section 64 of the National Insurance Act, 1946(a), as extended by subsection (1) of section 4 of the Family Allowances and National Insurance Act, 1956(b), it is provided that Her Majesty may, by Order in Council, make provision for modifying or adapting the Family Allowances Act, 1945(c), and the said National Insurance Act, 1946, in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in those sections:

Now, therefore, Her Majesty, in pursuance of the said section 64 of the National Insurance Act, 1946, as so extended, 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, commencement and interpretation

1.—(1) This Order may be cited as the Family Allowances and National Insurance (Australia) Order, 1958.

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

Modification of Acts

2. The provisions contained in the Agreement set out in the Schedule hereto shall have full force and effect, so far as the same relate to England, Wales and Scotland and provide by way of Agreement with the Government of the Commonwealth of Australia for reciprocity in any matters specified in subsection (1) of section 64 of the National Insurance Act, 1946, as extended by subsection (1) of section 4 of the Family Allowances and National Insurance Act, 1956 (which subsections relate to reciprocal agreements with other governments), and the Family Allowances Acts, 1945 to 1956, and the National Insurance Acts, 1946 to 1957, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the said provisions.

Revocation

3. The National Insurance (Reciprocal Agreement with Australia) Order, 1953(e), is hereby revoked but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred, thereunder.

W. G. Agnew.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA ON SOCIAL SECURITY

Canberra, 29th January, 1958

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

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 age, widowhood, invalidity, sickness, unemployment and family responsibilities, as far as possible at the same rates and under the same conditions as persons who have been resident in the latter country,

Have agreed as follows:

(a) 9 & 10 Geo. 6. c. 67. (b) 4 & 5 Eliz. 2. c. 50.
(c) 8 & 9 Geo. 6. c. 41. (d) 52 & 53 Vict. c. 63.
(e) S.I. 1953/1772 (1953 I, p. 1383).

PART I.—Definitions and General Provisions

ARTICLE 1

Definitions

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

(*a*) "age pension", "invalid pension", "wife's allowance" and "child's allowance" have the same meaning as in the legislation of Australia;

(*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 Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland or the Isle of Man Board of Social Services, as the case may require, and, in relation to Australia, the Director-General of Social Services;

(*e*) "country" means, according to the context, the United Kingdom or Australia;

(*f*) "family benefit" means, in relation to the United Kingdom, a family allowance payable under the legislation of the United Kingdom, and, in relation to Australia, child endowment payable under the legislation of Australia;

(*g*) "former Agreement" means the Agreement on Social Security signed in London on the 8th June, 1953, on behalf of the Contracting Parties;

(*h*) "full standard rate" means, in relation to any benefit payable under the legislation of the United Kingdom, the rate at which the beneficiary would be qualified to receive that benefit if the relevant contribution conditions were fully satisfied;

(*i*) "guardian's allowance", "widow's allowance", "widowed mother's allowance" and "widow's basic pension" have the same meaning as in the legislation of the United Kingdom;

(*j*) "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;

(*k*) "means test" means any provision of the legislation of Australia which affects the payment or rate of a benefit on account of income or property;

(*l*) "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;

(*m*) "qualified to receive" means, in relation to the United Kingdom, entitled to receive subject to any disqualification or any provision about giving notice, claiming, earnings, hospital treatment or overlapping benefits which may be appropriate and, in relation to Australia, qualified to receive after taking into account any means test which may be appropriate.

(*n*) "retirement pension" has the same meaning as in the legislation of the United Kingdom and includes a contributory old age pension payable under that legislation;

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

(*p*) "widow's benefit" means, in relation to the United Kingdom, a widow's allowance, a 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 the 5th July, 1948;

(*q*) " widow's pension ", in relation to the United Kingdom, means a widow's pension payable under the legislation of the United Kingdom other than a widow's basic pension, and, in relation to Australia, has the same meaning as in the legislation of Australia.

ARTICLE 2

Legislation

(1) The provisions of this Agreement shall apply—

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

(i) to the National Insurance Act, 1946, the National Insurance Act (Northern Ireland), 1946, the National Insurance (Isle of Man) Act, 1948, and the legislation in force before the 5th July, 1948, which was replaced by those Acts; and

(ii) to the Family Allowances Act, 1945, and the Family Allowances (Isle of Man) Act, 1946; and

(*b*) in relation to Australia, to the *Social Services Act* 1947-1957.

(2) Subject to the provisions of paragraph (4) of this Article, this Agreement shall apply also to laws, orders and regulations which carry into effect, amend, supplement or consolidate the legislation specified in paragraph (1) of this Article.

(3) This Agreement shall apply to laws, orders and regulations which amend or supplement the legislation specified in paragraph (1) or (2) of this Article for the purpose of giving effect to it or to any agreement on social security which any two of the competent authorities of the United Kingdom have made with one another.

(4) Subject to the provisions of paragraph (2) of Article 32, this Agreement shall apply, only if the Contracting Parties so agree, to laws, orders and regulations which amend or supplement the legislation specified in paragraph (1) or (2) of this Article for the purpose of giving effect to any other reciprocal agreement on social security which one (or the other) Party has made with the Government of a third country or which any of the competent authorities of the United Kingdom has made with the authority administering any scheme of social security in a third country.

PART II.—Retirement Pensions and Age Pensions

ARTICLE 3

United Kingdom retirement pensions by virtue of residence in Australia

(1) For the purposes of any claim to receive a retirement pension, a person who is permanently resident in the United Kingdom shall be treated as if he, or, in the case of a claim made by a married woman or a 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 Australia, and for any period during which he was proceeding from either country to the other, if he arrived in the latter country within thirteen weeks after leaving the former country.

(2) Where the person claiming a retirement pension is a married woman claiming by virtue of her own insurance, the provisions of paragraph (1) of this Article shall not apply to her unless—

(*a*) 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 purposes of any claim to receive a benefit under that legislation) for any period after the date of her marriage and before the date when she reaches pension age; or

(*b*) at the time when she was last in Australia, she was being treated as a widow for the purposes of her right to receive a widow's pension under the legislation of Australia, or would have been so treated but for her earnings.

(3) Where the person claiming a retirement pension is a widow claiming by virtue of her own insurance and she has chosen to have her husband's contributions taken into account, the provisions of paragraph (1) shall apply both to her husband and to herself.

(4) Where a person who is permanently resident in the United Kingdom was receiving an age pension, otherwise than by virtue of this Agreement or the former Agreement, at the time when he was last in Australia, and was over pension age at that time, he shall, if he is not qualified by virtue of paragraphs (1), (2) and (3) of this Article to receive a retirement pension at the full standard rate, be treated as if he satisfied the contribution conditions for such a pension: Provided that a married woman who does not satisfy either of the conditions specified in paragraph (2) of this Article shall be treated for the purposes of this paragraph as if her husband and not she satisfied the said contribution conditions.

(5) Subject to the provisions of Article 21, any pension which is awarded by virtue of this Article shall cease to be payable if the pensioner ceases to be permanently resident in the United Kingdom.

ARTICLE 4

Australian age pensioner deemed to have retired

For the purposes of any claim to receive a retirement pension, a person shall be deemed to have retired from regular employment if, at any time within the four months before his arrival in the United Kingdom, he was receiving an age pension.

ARTICLE 5

United Kingdom contributions payable after pension age

For the purposes 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 Australia for any period shall be treated as if he had become an insured person at the beginning of that period.

ARTICLE 6

Restoration of retirement pension rights

A person who at any time before the 7th January, 1954, chose not to qualify for a retirement pension but to have a refund of part of the contributions which he had paid under the legislation of the United Kingdom may, if he was resident in Australia for any period before or after that time, cancel that choice by giving notice to the competent authority of the United Kingdom and repaying the sum which he received by way of refund of contributions.

ARTICLE 7

United Kingdom retirement pensions in Australia

(1) Where a person would be qualified to receive a retirement pension, otherwise than by virtue of this Agreement or the former Agreement, if he were in the United Kingdom, he shall be qualified to receive that pension while he is in Australia.

(2) This Article shall have effect subject to the provisions of Article 24.

ARTICLE 8

Australian age pensions by virtue of residence in the United Kingdom

(1) For the purposes of any claim to receive an age pension, a person who is permanently resident in Australia shall be treated as if he had been resident there during any period—

(*a*) during which he was resident in the United Kingdom; or

(*b*) during which he was proceeding from the United Kingdom to Australia, if he arrived in Australia within thirteen weeks after leaving the United Kingdom.

(2) This Article shall have effect subject to the provisions of Article 25.

PART III.—Widows' Benefits and Widows' Pensions

ARTICLE 9

United Kingdom widows' benefits by virtue of residence in Australia

(1) For the purposes of any claim to receive a widow's benefit under the legislation of the United Kingdom, a widow who is permanently resident in the United Kingdom shall be treated as if her husband had paid contributions under that legislation for any period during which he was resident in Australia, and for any period during which he was proceeding from either country to the other, if he arrived in the latter country within thirteen weeks after leaving the former country.

(2) Where a widow who is permanently resident in the United Kingdom was receiving a widow's pension under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, at the time when she was last in that country, and is not qualified by virtue of paragraph (1) of this Article to receive a widowed mother's allowance or widow's pension at the full standard rate under the legislation of the United Kingdom, she shall be qualified to receive at the full standard rate—

(*a*) a widowed mother's allowance if she has a child in her family or if she has residing with her a person under the age of eighteen years and the widow's pension which she was receiving at the time when she was last in Australia was being paid to her on the basis that she had the custody, care and control of that child or of that person ; or

(*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 Australia or when she ceased to be qualified to receive a widowed mother's allowance.

(3) Subject to the provisions of Article 21, any widow's benefit which is awarded by virtue of this Article shall cease to be payable if the widow ceases to be permanently resident in the United Kingdom.

ARTICLE 10

United Kingdom widow or widow's child in Australia

(1) Where a woman would be qualified to receive a widow's benefit under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, if she were in the United Kingdom, she shall be qualified to receive that benefit while she is in Australia.

(2) Where a woman would be qualified under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, to receive a widowed mother's allowance, including an allowance for a child, if her child were in the United Kingdom, she shall be qualified to receive that allowance for any period—

(*a*) during which the child is in Australia ; or

(*b*) during which the child is proceeding from one country to the other, if he arrives in the latter country within thirteen weeks after leaving the former country.

(3) This Article shall have effect subject to the provisions of Article 24.

ARTICLE 11

Australian widows' pensions by virtue of residence in the United Kingdom

(1) For the purposes of any claim to receive a widow's pension under the legislation of Australia, a woman who is permanently resident in that country shall be treated as if she had been resident in Australia during any period—

(*a*) during which she was resident in the United Kingdom ;

(*b*) during which she was absent from the United Kingdom, if her husband paid contributions or had contributions credited to him for that period under the legislation of the United Kingdom ; or

(*c*) during which she was proceeding from the United Kingdom to Australia, if she arrived in Australia within thirteen weeks after leaving the United Kingdom.

(2) This Article shall have effect subject to the provisions of Article 25.

PART IV—Family Allowances, Guardians' Allowances and Child Endowment

ARTICLE 12

Family benefit paid in one country by virtue of residence in the other

(1) If a person is in the United Kingdom but is treated, otherwise than by virtue of this Agreement, for the purposes of the legislation of Australia as being in Australia, he shall be qualified to receive family benefit for a child in accordance with the provisions of that legislation ; and no family benefit for that child shall be paid under the legislation of the United Kingdom.

(2) Subject to the provisions of paragraph (1) of this Article—

(*a*) if a person who has claimed family benefit under the legislation of one country or the child for whom family benefit has been so claimed is permanently resident in that country, then, for the purposes of any right to receive that benefit, any period during which he was resident or present in the other country shall be treated as a period during which he was, respectively, resident or present in the former country and, if he was born in the latter country, he shall be treated as if he had been born in the former country ; and

(*b*) if a person who has claimed family benefit under the legislation of one country is temporarily absent from that country, he shall, for the purposes of any right to receive that benefit, be treated during any period during which he is in the other country as if he were in the former country, provided that the said period begins within thirteen weeks after the time when he was last in the former country ; but he shall be qualified to receive only the amount of family benefit which he would have received under the legislation of the latter country if that amount is less than the amount which he would have received under the legislation of the former country.

(3) Where the circumstances in which a person is receiving education or undergoing training in Australia are such that, if they had occurred in the United Kingdom, they would have enabled that person to be treated, for the purposes of the legislation of the United Kingdom, as undergoing full-time instruction in a school or as undergoing full-time training, as the case may be, that person shall, for the purposes of any right to receive family benefit under the legislation of the United Kingdom, be treated as undergoing full-time instruction in a school or as undergoing full-time training, as the case may be.

(4) Any child born to a woman while she is temporarily absent from one country in circumstances in which she is treated, in accordance with sub-paragraph (*b*) of paragraph (2) of this Article, as if she were in that country shall, for the purposes of any right to receive family benefit under the legislation of that country, be treated as if the child had been born in that country and, so long as the woman or her husband is so temporarily absent, as if the child were in that country during any period during which the child is in the other country.

(5) Where any person is qualified to receive family benefit for a child under the legislation of one country by virtue of the provisions of paragraph (2) of this Article, no family benefit for that child shall be paid under the legislation of the other country.

ARTICLE 13

Guardians' allowances

Where a person who is permanently resident in the United Kingdom claims a guardian's allowance for a child who is permanently resident there, any parent of that child who, after reaching the age of fifteen years, was resident in Australia on or after the 5th July, 1948, shall be treated as if he had been insured under the legislation of the United Kingdom.

ARTICLE 14

Family allowances in Northern Ireland

The Contracting Parties agree that the Reciprocal Arrangements relating to Family Allowances in Northern Ireland and Child Endowment in Australia, a Memorandum of which is set out in the Schedule to the former Agreement, shall continue to have effect.

PART V.—Sickness Benefits and Invalid Pensions

ARTICLE 15

Australian sickness benefits by virtue of United Kingdom residence

If a person in Australia claims a sickness benefit under the legislation of that country, he shall be treated, for the purposes of that claim, as if he had been resident in Australia—

(*a*) during any period during which he was resident in the United Kingdom; and

(*b*) during the period after his departure from the United Kingdom until his arrival in Australia, if that period does not exceed thirteen weeks.

ARTICLE 16

Australian invalid pensions by virtue of United Kingdom residence

(1) If a person who is permanently resident in Australia claims an invalid pension under the legislation of that country, he shall be treated for the purposes of that claim—

(*a*) as if he had been resident in Australia during any period—

(i) during which he was resident in the United Kingdom; or

(ii) during which he was proceeding from the United Kingdom to Australia, if he arrived in Australia within thirteen weeks after leaving the United Kingdom; and

(*b*) as if he had become permanently incapacitated for work or permanently blind while in Australia, if he became permanently incapacitated for work or permanently blind, as the case may be, while in the United Kingdom or while proceeding from the United Kingdom to Australia.

(2) If a person is qualified to receive an invalid pension by virtue of the provisions of paragraph (1) of this Article, then, subject to the provisions of paragraph (3) of this Article and to the provisions of the legislation of Australia, his wife shall be qualified to receive a wife's allowance and he or his wife shall be qualified to receive a child's allowance.

(3) Where a person, at the time when he arrives in Australia, is qualified to receive an invalid pension by virtue of the provisions of paragraph (1) of this Article—

(*a*) he shall not receive more by way of such pension than the amount of the sickness benefit which he would have received under the legislation of the United Kingdom if he had remained in that country and any provision of that legislation about overlapping benefits which would have been appropriate in his case had not been applied;

(*b*) his wife shall not receive more by way of a wife's allowance than the amount by which the amount of the sickness benefit which he would have received under the legislation of the United Kingdom exceeds the amount of the invalid pension which he is qualified to receive; and

(*c*) any child's allowance which he or his wife is qualified to receive shall not exceed the amount by which the amount of the sickness benefit which he would have received under the legislation of the United Kingdom exceeds the total amount of the invalid pension and the wife's allowance which he and his wife are respectively qualified to receive.

ARTICLE 17

United Kingdom sickness benefit by virtue of gainful occupation in Australia

(1) Where a person, who is, or would but for his incapacity for work be, ordinarily gainfully occupied claims a sickness benefit under the legislation of the United Kingdom or applies for contributions to be credited to him under that legislation for any period during which he is incapable of work, he shall be treated—

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

(i) under the legislation of the United Kingdom concerning National Health Insurance in force before the 5th July, 1948, for any week before that date during which he was gainfully occupied under a contract of service in Australia;

(ii) as an employed person for any week after that date during which he was gainfully occupied under a contract of service in Australia;

(iii) as a self-employed person for any other week after that date during which he was gainfully occupied in Australia; and

(iv) as a non-employed person for any week after that date during which he was proceeding from either country to the other, if he arrived in the latter country within thirteen weeks after leaving the former country;

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

(i) as an employed person for any week during which he was resident in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied under a contract of service; and

(ii) as a self-employed person for any other week during which he was resident in Australia and was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied.

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

(3) Where a person who is permanently resident in the United Kingdom was receiving—

(*a*) a sickness benefit, an invalid pension or a rehabilitation allowance under the legislation of Australia; or

(*b*) a payment under the *Tuberculosis Act* 1948, of the Commonwealth of Australia,

when he was last in Australia 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 and for so long as he continues from that time to be incapable of work, he satisfied the contribution conditions under which sickness benefit is payable for an indefinite period.

PART VI.—Unemployment Benefits

ARTICLE 18

(1) If a person in one country claims an unemployment benefit under the legislation of that country, he shall be treated for the purposes of his claim as if he had been resident in that country during any period—

(*a*) during which he was resident in the other country; or

(*b*) during which he was proceeding from the latter country to the former country, if that period does not exceed thirteen weeks.

(2) Where a person claims an unemployment benefit under the legislation of the United Kingdom or applies for contributions to be credited to him under that legislation for any period during which he is unemployed, he shall be treated—

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

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

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

(iii) as a non-employed person for any week during which he was proceeding from either country to the other, if he arrived in the latter country within thirteen weeks after leaving the former country;

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

(i) as an employed person for any week during which he was resident in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied under a contract of service; and

(ii) as a self-employed person for any other week during which he was resident in Australia and was incapable of work, if that week was part of a period during which he was ordinarily gainfully occupied.

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

PART VII.—Beneficiaries moving from one Country to the other

ARTICLE 19

Australian pensioner migrating to the United Kingdom

Where a person—

(*a*) leaves Australia to become permanently resident in the United Kingdom and arrives in the United Kingdom within thirteen weeks after leaving Australia; and

(*b*) was qualified to receive and was receiving an age pension, an invalid pension, a wife's allowance, a child's allowance or a widow's pension under the legislation of Australia, whether by virtue of this Agreement or otherwise, immediately before leaving Australia,

that pension shall not cease to be payable, and may be paid, for the period during which he is proceeding to the United Kingdom.

ARTICLE 20

Australian pensioner visiting the United Kingdom

(1) The provisions of this Article shall apply only to age pensions, invalid pensions, wives' and children's allowances and widows' pensions payable under the legislation of Australia, whether by virtue of this Agreement or otherwise.

(2) Where a person—

(*a*) is temporarily absent from Australia and arrives in the United Kingdom within thirteen weeks after leaving Australia ; and

(*b*) was qualified to receive, and was receiving, a benefit immediately before leaving Australia,

that benefit shall not cease to be payable, and may be paid, during that temporary absence, but payment for the period after his departure from the United Kingdom until his arrival in Australia shall not be made unless that period does not exceed thirteen weeks.

(3) A person—

(*a*) who is temporarily absent from Australia and arrives in the United Kingdom within thirteen weeks after leaving Australia ;

(*b*) who, if he had not left Australia, would have become qualified to receive a benefit at a time during that temporary absence ; and

(*c*) who, if that time is between the date of his departure from the United Kingdom and the date of his arrival in Australia, arrives in Australia within thirteen weeks after leaving the United Kingdom,

shall be treated as if he had become qualified to receive that benefit at that time, and the benefit shall be payable, and may be paid, during his temporary absence, but payment for the period after his departure from the United Kingdom until his arrival in Australia shall not be made unless that period does not exceed thirteen weeks.

(4) Where—

(*a*) a person is, by virtue of the last preceding paragraph, treated as if he had become qualified to receive a benefit at a time after his departure from Australia but before his arrival in the United Kingdom or after his departure from the United Kingdom but before his arrival in Australia ; and

(*b*) he lodges a claim for that benefit within fourteen days after his arrival in the United Kingdom or Australia, as the case may be,

the claim shall be treated, for the purposes of determining the date from which the benefit may be paid, as if it had been lodged at the time when he is treated as having become so qualified.

ARTICLE 21

United Kingdom beneficiary proceeding to or from Australia

(1) Where a person—

(*a*) leaves the United Kingdom to become permanently resident in Australia and arrives in Australia within thirteen weeks after leaving the United Kingdom ; and

(*b*) was qualified to receive a retirement pension or a widow's benefit under the legislation of the United Kingdom, whether by virtue of this Agreement or otherwise, immediately before his departure from the United Kingdom,

that person shall continue to be so qualified for the period of the journey.

(2) Where a person to whom the provisions of paragraph (1) of this Article do not apply would be qualified, if he were in the United Kingdom, to receive a retirement pension or a widow's benefit under the legislation of that country, otherwise than by virtue of this Agreement or the former Agreement, he shall be qualified to receive that pension or benefit for any period during which he is proceeding from one country to the other.

(3) This Article shall have effect subject to the provisions of Article 24.

PART VIII.—Miscellaneous Provisions

ARTICLE 22

United Kingdom beneficiary with dependant in Australia

(1) Where a person, who is qualified to receive any benefit under the legislation of the United Kingdom, other than a retirement pension payable by virtue of

Article 3 of this 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 Australia unless the dependant is a child for whom child endowment is payable under the legislation of Australia.

(2) Where the dependant of any person is proceeding from one country to the other, and arrives in the latter country within thirteen weeks after leaving the former country, the provisions of paragraph (1) of this Article shall apply to that person as if the dependant were in Australia.

ARTICLE 23

Family benefit for period of journey

Where a person was qualified under the legislation of either country, whether by virtue of this Agreement or otherwise, to receive family benefit for a child immediately before he or the child or both left one of the two countries and would have remained so qualified if he or the child or both, as the case may be, had not left that country, the benefit shall not cease to be payable, and may be paid, for any period (not exceeding thirteen weeks in the case of any one journey) during which he or the child or both, as the case may be, are proceeding to the other country.

ARTICLE 24

Rate of United Kingdom benefit in Australia

Where a person who is not resident in the United Kingdom is in Australia and is qualified to receive any 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 resident in the United Kingdom.

ARTICLE 25

United Kingdom beneficiary qualified to receive Australian benefit

(1) The provisions of this Article shall apply, in relation to the United Kingdom, only to retirement pensions and widows' benefits, and, in relation to Australia, only to age pensions, invalid pensions, wives' allowances and widows' pensions, whether they are payable by virtue of this Agreement or otherwise; and, for the purposes of applying those provisions, the effect of any provision of the legislation of the United Kingdom which concerns overlapping benefits shall be disregarded.

(2) Subject to the provisions of paragraph (4) of this Article, where a person is qualified to receive a benefit under the legislation of Australia, the amount of any benefit which he 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 be payable to him under the legislation of Australia.

(3) Where a married woman is qualified to receive a benefit under the legislation of Australia, the amount of any increase of benefit which her husband is entitled to receive for her under the legislation of the United Kingdom shall be disregarded in the computation of his income and her income, and shall be deducted from the amount of benefit which would otherwise be payable to her under the legislation of Australia.

(4) Where a man and his wife are both entitled to receive benefits under the legislation of Australia, the provisions of paragraph (2) of this Article shall not apply to any increase of benefit which he is entitled to receive for her under the legislation of the United Kingdom, but the provisions of paragraph (3) shall apply to that increase of benefit.

ARTICLE 26

Widow receiving invalid or widow's pension before migration to the United Kingdom

Where a widow who is permanently resident in the United Kingdom was receiving an invalid pension or a widow's pension under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, from the time when her husband died until the time when she was last in Australia, she shall, for the purposes of any claim to receive a sickness benefit, an unemployment benefit or a retirement pension under the legislation of the United Kingdom, be treated as if, at the time when she arrived in the United Kingdom, she ceased to be entitled to a widow's allowance under that legislation.

ARTICLE 27

Meaning of " permanently resident "

For the purposes of applying the provisions of Articles 3, 8, 9, 11, 12, 13, 16, 17, 19, 20, 21 and 26, a person shall be treated as permanently resident in one country and shall not be treated as temporarily absent from the other country—

(*a*) if the competent authority of the former country is satisfied that he is likely to remain there for at least three years ; or

(*b*) if he has been temporarily resident in the former country for at least one year and the competent authorities of the two countries have not agreed that he should not be treated as permanently resident in that country.

ARTICLE 28

Meaning of " resident in the United Kingdom "

For the purposes of applying the provisions of Articles 8, 11, 12, 15, 16 and 18, a person shall be treated as having been resident in the United Kingdom during any period of absence from that country during which he was not resident in Australia and for which he paid contributions voluntarily or compulsorily under the legislation of the United Kingdom or for which he had contributions credited to him under that legislation.

ARTICLE 29

Meaning of " resident in Australia "

(1) For the purposes of applying the provisions of Articles 3, 5, 6, 9, 12, 13, 17 and 18, a person shall be treated as having been resident in Australia during any period of absence from that country if he was treated, otherwise than by virtue of this Agreement or the former Agreement, as being resident there during that period for the purposes of the legislation of that country.

(2) For the purposes of applying the provisions of Articles 3, 5, 6, 9, 17 and 18, no account shall be taken of any period during which a person was resident in Australia before he reached the age of fifteen years or after he reached pension age.

PART IX.—Administration

ARTICLE 30

Administrative arrangements

The competent authorities—

(*a*) shall make such administrative arrangements as may be required for the purposes of giving effect to this 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 this Agreement ;

(*c*) shall supply to each other, on request, information regarding the circumstances of any person who claims a benefit in accordance with the provisions of this Agreement; and

(*d*) shall communicate to each other, as soon as possible, information regarding any changes made in the legislation of their countries which affect the application of this Agreement.

ARTICLE 31

Agency payments

Where, under the provisions of Articles 7, 10, 12, 19, 20, 21 or 23 of this Agreement, any benefit is payable under the legislation of one country to a person who is 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 X.—Extension of Agreement to other Territories

ARTICLE 32

(1) Where any territory for whose international relations the Government of the United Kingdom is responsible has a scheme of social insurance which provides benefits comparable with the benefits provided by the schemes of National Insurance of the United Kingdom and is linked with those schemes by means of a reciprocal agreement, the Contracting Parties, at the request of the Government of that territory, may agree to extend this Agreement by means of an Exchange of Notes so that it applies to that territory.

(2) If this Agreement is extended to any territory in accordance with the provisions of paragraph (1) of this Article, it shall apply, subject to such modifications as may be agreed by the Contracting Parties and specified in the Exchange of Notes—

(*a*) to periods of residence in that territory or insurance under that territory's scheme of social insurance, in the same way as it applies to periods of residence in the United Kingdom or insurance under the legislation of the United Kingdom; and

(*b*) in relation to persons in that territory or resident in that territory, to that territory's scheme of social insurance, in the same way as it applies, in relation to persons in the United Kingdom or resident in the United Kingdom, to the legislation of the United Kingdom,

and, subject as aforesaid, the legislation of the United Kingdom shall be deemed to include any Order in Council giving effect to the reciprocal agreement which links that territory's scheme of social insurance with the schemes of National Insurance of the United Kingdom.

PART XI.—Transitional and Final Provisions

ARTICLE 33

Transitional provisions

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

(2) Any contribution which a person has paid under the legislation of the United Kingdom before the date of the entry into force of this Agreement, and any period during which a person has been resident in either country before that date, shall be taken into account for the purposes of determining the right to receive a benefit in accordance with the provisions of this 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 the entry into force of this Agreement, whether by virtue of the former Agreement or otherwise, and a person who, before the 7th January, 1959, makes a claim to receive an age pension, an invalid pension or a wife's allowance shall have the right to have his claim determined without regard to the provisions of this Agreement or the former Agreement.

ARTICLE 34

Termination of Agreement

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 those provisions.

ARTICLE 35

Entry into force of Agreement

(1) This Agreement shall enter into force on the 1st April, 1958, 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 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.

(2) Subject to the provisions of Articles 14 and 33, the former Agreement shall be terminated on the date of entry into force of this Agreement.

IN WITNESS whereof the undersigned, duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Canberra, this twenty-ninth day of January, Nineteen hundred and fifty-eight.

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

HAROLD MACMILLAN.

For the Government of the Commonwealth of Australia:

ROBERT MENZIES.

EXPLANATORY NOTE

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

This Order gives effect in England, Wales and Scotland to the Agreement (set out in the Schedule) made between the Governments of the United Kingdom of Great Britain and of the Commonwealth of Australia and modifies the Family Allowances Acts, 1945 to 1956, and the National Insurance Acts, 1946 to 1957, in their application to persons affected by the Agreement.