STATUTORY INSTRUMENTS

1973 No. 1085

SOCIAL SECURITY

The Family Allowances (Jersey) Order 1973

Made - - - *20th June* 1973

At the Court at Windsor Castle, the 20th day of June 1973

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 105(1) of the National Insurance Act 1965(**a**), as extended by section 22(1) of the Family Allowances 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 Family Allowances (Jersey) Order 1973.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**c**) shall apply in relation to this Order and in relation to the regulations revoked by it as if this Order and the regulations revoked by it were Acts of Parliament, and as if the revocation were a repeal.

Modification of Acts

2. The provisions contained in the Agreement on Family Allowances 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 as extended by section 22(1) of the Family Allowances Act 1965; and the Family Allowances Acts 1965 to 1969 and the National Insurance Acts 1965 to 1972 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

Revocation of Regulations

3. The Family Allowances (Jersey Reciprocal Arrangements) Regulations 1954(**d**) are hereby revoked.

W. G. Agnew.

(**a**) 1965 c. 51.
(**b**) 1965 c. 53.
(**c**) 1889 c. 63.
(**d**) S.I. 1954/863 (1954 I, p. 835).

SCHEDULE

AGREEMENT ON FAMILY ALLOWANCES BETWEEN THE SECRETARY OF STATE FOR SOCIAL SERVICES 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 SOCIAL SECURITY COMMITTEE, WITH THE CONSENT OF THE STATES OF JERSEY, OF THE SECOND PART.

PART I: DEFINITIONS AND SCOPE

ARTICLE 1

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

(*a*) "competent authority" means—

(i) in relation to Great Britain, the Secretary of State for Social Services or the Isle of Man Board of Social Security, as the case may require;

(ii) in relation to Jersey, the Social Security Committee;

(*b*) "country" means Great Britain or Jersey, as the case may require;

(*c*) "family allowance" means a family allowance as defined in the legislation which, in accordance with the provisions of this Agreement, applies in any particular case;

(*d*) "gainfully occupied" means employed or self employed;

(*e*) "Great Britain" means England, Scotland, Wales and the Isle of Man;

(*f*) "legislation" means, in relation to either country, the legislation of that country specified in Article 2 of this Agreement;

and other expressions have the meanings respectively assigned to them in the legislation of Great Britain or Jersey, as the case may require.

ARTICLE 2

(1) The provisions of this Agreement shall apply—

(*a*) in relation to Great Britain, to—

(i) the National Insurance Act, 1965, the National Insurance (Isle of Man) Act, 1971 and the legislation repealed or consolidated by, or repealed by enactments consolidated by, those Acts;

(ii) the Family Allowances Act, 1965 and the Family Allowances (Isle of Man) Act, 1971;

(*b*) in relation to Jersey, to—

(i) the Insular Insurance (Jersey) Law, 1950;

(ii) the Family Allowances (Jersey) Law, 1972.

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

PART II: PROVISIONS WHICH DETERMINE THE LEGISLATION APPLICABLE

ARTICLE 3

(1) Subject to the provisions of paragraphs (2) and (3) of this Article where a person, and his children, are ordinarily resident in one country and that person is gainfully occupied in the other country, he, and his children shall be treated as resident and present in the territory of the former country and the legislation of that country concerning family allowances shall apply:

Provided that, if his gainful occupation in the latter country has lasted for as long as twenty-four months, this paragraph shall cease to apply to him, unless the competent authorities of the two countries otherwise agree in a particular case.

(2) Where a person in the Government service or in the service of any public corporation of one country goes in the course of that employment to work in the other country and the provisions of paragraph (1) of this Article do not apply to him or have ceased to apply to him, he shall be entitled to choose within three months of the beginning of that employment in the latter country or of the time when those provisions cease to apply to him that, as from the date on which he gives notice to the competent authority of the latter country, the legislation of the former country shall apply to him, in which case he, together with his children, shall be treated as resident and present in the territory of the former country: Provided that his choice of legislation under the provisions of this paragraph shall be the same as his choice of legislation concerning payment of contributions under the provisions of any social security agreement in force between the two countries.

(3) Where a person is ordinarily resident in one country and is employed either—

(*a*) as master or a member of the crew of a ship, vessel or hovercraft which is registered or owned in the other country and engaged in regular trade between the two countries; or

(*b*) as pilot, commander, navigator or a member of the crew of an aircraft which is registered in the other country and engaged in regular trade between the two countries;

he shall be treated for the purpose of any claim to family allowances as if he were in and employed in the former country; and if his children are in the other country they shall be treated as if they were in the former country.

(4) Where, but for the provisions of this paragraph, the legislation of both countries would apply in respect of the same children, the legislation of the country where the children are ordinarily resident shall apply, provided that where a child would be treated as included in the family of one parent under the legislation of one country, and in the family of the other parent under the legislation of the other country for the same period, then that child shall be included in one of those families to the exclusion of the other as may be agreed between the parents, or, in default of such agreement in the family which the competent authorities may by agreement determine.

PART III: GENERAL PROVISIONS

ARTICLE 4

For the purposes of all or any of the provisions of the legislation of either country, a child who, by reason of his having been removed from the control of his parents, would be excluded from the family under the legislation of one country shall be so excluded for the purposes of the legislation of the other country.

ARTICLE 5

Subject to the provisions of Article 3, a person who is ordinarily resident in Great Britain shall, for the purposes of any claim to receive a family allowance under the legislation of Great Britain, be treated—

(*a*) as if his place of birth were in Great Britain if it is in Jersey;

(*b*) as if he had been resident or present in Great Britain during any period during which he was, respectively, resident or present in Jersey;

Provided that where a person moves from Jersey to Great Britain no payment shall accrue under the provisions of this Article for any period before the first day of presence in Great Britain, or the date on which the legislation of Jersey ceases to apply, whichever is the later.

ARTICLE 6

(1) Subject to the provisions of Article 3, a person who claims a family allowance under the legislation of Jersey—

(*a*) shall be treated as if any period of residence or presence he has completed in Great Britain had been a period of residence or presence in Jersey;

(*b*) who becomes ordinarily resident in Jersey and who immediately before his arrival in Jersey was resident in Great Britain and would have satisfied the residence and presence conditions for a family allowance under the legislation of Great Britain, or was in receipt of a family allowance under the legislation of Great Britain, shall be eligible for a family allowance under the legislation of Jersey from the date of the arrival of his family in Jersey or the cessation of family allowance under the legislation of Great Britain, whichever is the later;

(*c*) who becomes ordinarily resident in Jersey, and who, immediately before his arrival in Jersey was resident in Great Britain, but who did not satisfy the residence and presence conditions for receipt of a family allowance under the legislation of that country, shall be eligible for a family allowance under the legislation of Jersey from the date on which he would have become entitled to a family allowance under the legislation of Great Britain if he had remained in that country, or from the date on which he would be eligible under the legislation of Jersey, whichever is the earlier.

(2) Notwithstanding the provisions of this Article, a family allowance shall not be payable under the legislation of Jersey unless and until the provisions of that legislation concerning the income of the family are satisfied.

ARTICLE 7

A child in respect of whom a Guardian's Allowance is payable under the legislation of one country shall be treated for the purposes of the legislation of the other country as a child in respect of whom a Guardian's Allowance is payable under the legislation of that other country.

PART IV: MISCELLANEOUS PROVISIONS

ARTICLE 8

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

ARTICLE 9

The competent authority of one country shall furnish assistance to the competent authority of the other country with regard to any matter relating to the application of this Agreement as if the matter were one affecting the application of the legislation of the former country.

PART V: TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 10

Where a person is entitled to an allowance (or but for the absence of a valid claim would have been so entitled) under the provisions of Article 4(1) of the Memorandum of Reciprocal Arrangements relating to Family Allowances signed by the Minister of Pensions and National Insurance, and the Greffier of the States which came into force on 6 July 1954 an allowance shall continue to be paid for the remainder of the six month period laid down in that Article provided that all other conditions for receipt of the allowance from the country concerned continue to be satisfied. After payment of such an allowance has ceased entitlement to any further allowance shall be determined in accordance

with the provisions of this Agreement and the applicable legislation. Nothing in this Article shall confer entitlement to an allowance from both countries for the same period.

ARTICLE 11

Subject to the provisions of Article 10 of this Agreement, the Memorandum of Reciprocal Arrangements relating to Family Allowances which was signed by the Minister of Pensions and National Insurance and the Greffier of the States in 1954 shall be terminated on the date of entry into force of this Agreement.

ARTICLE 12

(1) This Agreement shall enter into force on 8 May 1973 and shall remain in force for an indefinite period unless six months notice of termination is given in writing by the Secretary of State for Social Services and the Lieutenant-Governor of the Isle of Man of the first part or the Social Security Committee of Jersey of the second part.

(2) In the event of termination of this Agreement, any right acquired by a person in accordance with its provisions shall be maintained.

Given under the Official Seal of the Secretary of State for Social Services this 12th day of April 1973.

(L.S.) *Keith Joseph,*
Secretary of State for Social Services.

Given under the hand of the Lieutenant-Governor of the Isle of Man this 24th day of April 1973.

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

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

(L.S.) *J. C. Nivison,*
Chairman, Isle of Man Board of Social Security.

Signed on behalf of the Social Security Committee this 7th day of May 1973 and authorised by Act of the States of Jersey this 3rd day of April 1973.

E. J. M. Potter,
Greffier of the States.

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 Secretary of State for Social Services and the Lieutenant-Governor of the Isle of Man, with the advice of the Isle of Man Board of Social Security, of the first part, and the Social Security Committee, with the consent of the States of Jersey, of the second part, in so far as it relates to matters for which provision is made by the Family Allowances Acts 1965 to 1969 and the National Insurance Acts 1965 to 1972.

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