STATUTORY INSTRUMENTS

1965 No. 1130

NATIONAL INSURANCE

NATIONAL INSURANCE (INDUSTRIAL INJURIES)

The National Insurance and Industrial Injuries (Guernsey) Order 1965

Made - - - - 14*th May* 1965

At the Court at Buckingham Palace, the 14th day of May 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 64 of the National Insurance Act 1946(a), and section 85 of the National Insurance (Industrial Injuries) Act 1946(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 (Guernsey) Order 1965.

(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 64(1) of the National Insurance Act 1946, or section 85(1) of the National Insurance (Industrial Injuries) Act 1946 (which subsections relate to reciprocity with other countries); and the National Insurance Acts 1946 to 1964, and the National Insurance (Industrial Injuries) Acts 1946 to 1964, 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) 1946 c. 67.
(b) 1946 c. 62.
(c) 1889 c. 63.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE MINISTER OF PENSIONS AND NATIONAL INSURANCE, 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 ONE PART, AND THE STATES INSURANCE AUTHORITY, WITH THE CONSENT OF THE STATES OF GUERNSEY, OF THE OTHER PART

Definitions and Scope

ARTICLE 1

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

(*a*) "country" means the United Kingdom or Guernsey, as the case may require;

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

(*c*) "Guernsey" includes the Islands of Alderney, Herm and Jethou;

(*d*) "legislation" means, in relation to one (or the other) country the legislation of that country specified in Article 2 of this Agreement;

(*e*) "competent authority" means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Health and Social Services for Northern Ireland, or the Isle of Man Board of Social Services, as the case may require, and, in relation to Guernsey, the States Insurance Authority;

(*f*) "week" means a period of seven days beginning at midnight between Sunday and Monday;

(*g*) other expressions have the meanings respectively assigned to them in the legislation 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 United Kingdom to—

(i) 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;

(ii) the National Insurance (Industrial Injuries) Act 1946, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1946, and the National Insurance (Industrial Injuries) (Isle of Man) Act 1948;

(*b*) in relation to Guernsey to the Social Insurance (Guernsey) Law 1964.

(2) Subject to the provisions of paragraph (3) of this Article, the Agreement shall apply to any Act, Law, Ordinance, order or regulation which amends, supplements, or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Agreement shall apply, only if the Contracting Parties so agree, to any Act, Law, Ordinance, order or regulation which amends or supplements the legislation specified in paragraph (1) of this Article for the purpose of giving effect to any agreement providing for reciprocity with a scheme of social security in a third country.

Payment of Contributions

ARTICLE 3

(1) Where a person, who is ordinarily resident in one country and is employed in that country in the service of an employer who is ordinarily resident there or has a place of business there, goes in the course of that employment to work temporarily in the other country, contributions shall be payable in respect of his employment under the legislation of the former country as if he were employed in that country and shall not be payable under the legislation of the latter country:

Provided that this paragraph shall cease to apply to him, unless the competent authorities otherwise agree in any particular case, if his employment in the latter country has lasted for as long as twelve months.

(2) Where a person, who is established in the Government service of the United Kingdom, goes from the United Kingdom in the course of his employment to work in Guernsey 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 six months of the beginning of his employment in Guernsey or of the time when those provisions ceased to apply to him or of the entry into force of this Agreement, whichever is the latest, that, as from the date on which he gives notice to the competent authority of Guernsey, contributions shall be payable in respect of his employment under the legislation of the United Kingdom as if he were employed in that country, and contributions shall not be payable under the legislation of Guernsey.

(3) A person who, but for the provisions of this Article, would have been liable to pay either—

(*a*) a contribution as an employed person under the legislation of one country and a contribution as a self-employed or non-employed person under the legislation of the other country; or

(*b*) a contribution as a self-employed person under the legislation of one country and a contribution as a non-employed person under the legislation of the other country;

shall be be liable in either case to pay only the former contribution.

(4) Subject to the provisions of paragraph (3) of this Article, a person who has paid a contribution as an insured person for any week under the legislation of one country, being a contribution which he is liable to pay, shall not be liable to pay a contribution as an insured person for that week under the legislation of the other country.

(5) Where an employer has paid a contribution in respect of an employed person for any week under the legislation of one country, neither that employer nor any other employer shall be liable to pay a contribution in respect of that employed person for that week under the legislation of the other country.

(6) A person who has paid a contribution voluntarily for any week under the legislation of one country, being a contribution which he is entitled to pay, shall not be liable to pay a contribution as a non-employed person for that week under the legislation of the other country.

ARTICLE 4

For the purpose of those provisions of the legislation of one country which relate to mariners and airmen, a person who is domiciled or has a place of residence in the other country shall be treated as if he were domiciled or had a place of residence in the former country.

Sickness Benefit and Unemployment Benefit

ARTICLE 5

(1) Where an insured person who is ordinarily resident in one country and ordinarily pays contributions as an employed person there claims sickness benefit or unemployment benefit under the legislation of that country, any contribution which has been paid or treated as paid by him or credited to him under the legislation of the other country shall be treated, for the purpose of his claim, as if it were, respectively, a contribution which has been paid or treated as paid by him or credited to him under the legislation of the former country.

(2) Where an insured person, having become liable to pay contributions as an employed person under the legislation of one country since his last arrival in that country, claims sickness benefit there, his claim shall be dealt with under the legislation of that country and any contribution which he has paid or had credited to him under the legislation of the other country shall be treated, for the purpose of his claim, as if it were, respectively, a contribution which he had paid or had had credited to him under the legislation of the former country.

(3) For the purpose of any claim to receive unemployment benefit under the legislation of one country, any period during which a person was resident in the other country shall be treated as if it were a period during which he was resident in the former country.

Sickness Benefit of One Country payable in the Other Country

ARTICLE 6

(1) An insured person in one country shall be entitled to receive sickness benefit under the legislation of the other country only in accordance with the provisions of this Article.

(2) Where, in accordance with the provisions of paragraph (1) or paragraph (2) of Article 3 of this Agreement, an insured person is liable to pay contributions under the legislation of one country while he is employed in the other country, he shall be treated for the purpose of any right to receive sickness benefit under that legislation as if he were in the former country.

(3) Where a person would be entitled to receive sickness benefit under the legislation of one country, if he were in that country, and none of the provisions of paragraph (2) of this Article and paragraph (1) and paragraph (2) of Article 5 apply to him, he may, at the discretion of the competent authority of that country, be entitled to receive that benefit while he is in the other country.

Industrial Injuries and Diseases

ARTICLE 7

(1) Where, in accordance with the provisions of paragraph (1) or paragraph (2) of Article 3 of this Agreement, an insured person is liable to pay contributions under the legislation of one country while he is employed in the other

country, he shall be treated, for the purpose of any right to benefit in respect of an industrial accident happening or an industrial disease contracted during that employment, as if—

(*a*) the accident had happened or the disease had been contracted in the former country; and

(*b*) the employment were insurable under the legislation of the former country and not under the legislation of the latter country.

(2) If an accident happens to an insured person after he leaves one of the two countries to go, in the course of his employment, to the other country, and before he arrives in the latter country, then, for the purpose of any right to benefit in respect of that accident—

(*a*) the accident shall be treated as if it had happened in the country under whose legislation contributions were expected to be payable in respect of his employment in the country to which he was going; and

(*b*) his absence from either country shall be disregarded in determining whether the employment is insurable under that legislation.

(3) Where a person would be entitled to receive any benefit under the legislation of one country relating to industrial accidents and diseases if he were in that country, he shall be entitled to receive that benefit while he is in the other country.

Dependants

ARTICLE 8

In any case where a person, entitled to any benefit under the legislation of one country, would be entitled to an increase of benefit for a dependant if the dependant were in that country, he shall be entitled to that increase if the dependant is in the other country.

Other Provisions concerning Benefit

ARTICLE 9

(1) In determining whether a person has exhausted his right to sickness benefit or unemployment benefit under the legislation of one country or requalified for sickness benefit or unemployment benefit under that legislation, account shall be taken of any sickness benefit or unemployment benefit which he has been entitled to receive under the legislation of the other country and of any contribution which he has paid under that legislation.

(2) Where, but for the provisions of this paragraph, an insured person would be entitled to receive, for the same period, sickness benefit, unemployment benefit, injury benefit or maternity allowance under the legislation of one country and one of these benefits under the legislation of the other country, he shall be entitled to receive only the benefit which is payable at the higher rate.

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

Crediting of Contributions

ARTICLE 10

For the purpose of determining whether an insured person is entitled to have a contribution credited to him for any week under the legislation of one country, any contribution which he has paid or had credited to him under the legislation of the other country shall be treated as if it were, respectively, a contribution which he had paid or had had credited to him under the legislation of the former country, and any employment he has had in the latter country shall be treated as if it were employment he had had in the former country.

Miscellaneous

ARTICLE 11

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

(2) 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.

(3) The provisions of paragraph (6) of Article 3 of this Agreement shall be deemed to have come into force on the fourth day of January 1965.

(4) Subject to the provisions of paragraph (3) of this Article, this Agreement shall come into force on the twenty-fourth day of May 1965, 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 notice of termination is given in writing by the Minister of Pensions and National Insurance, the Ministry of Health and Social Services for Northern Ireland and the Lieutenant-Governor of the Isle of Man of the one part or the States Insurance Authority, with the consent of the States of Guernsey, of the other part at least six months before the expiry of any such yearly period.

Given under the Official Seal of the Minister of Pensions and National Insurance this 8th day of April 1965.

(L.S.) *Margaret Herbison,*
Minister of Pensions and National Insurance.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 9th day of April 1965.

(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 15th day of April 1965.

R. H. Garvey,
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 States of Guernsey by the President of the States Insurance Authority this 28th day of April 1965.

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 Pensions and National Insurance, 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 one part and the States Insurance Authority, with the consent of the States of Guernsey, of the other part, in so far as it relates to matters for which provision is made by the National Insurance Acts 1946 to 1964 and the National Insurance (Industrial Injuries) Acts 1946 to 1964.