1966 No. 402

NATIONAL INSURANCE

NATIONAL INSURANCE (INDUSTRIAL INJURIES)

The National Insurance and Industrial Injuries (Jersey and Guernsey) Order 1966

Made - - - - 6th April 1966

At the Court at Buckingham Palace, the 6th day of April 1966

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 1966.

(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 Act 1965, and the National Insurance (Industrial Injuries) Act 1965, 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

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 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.

Definitions

ARTICLE 1

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

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

(*b*) " United Kingdom " includes the Isle of Man ;

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

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

(*e*) " competent authority " means—

(i) 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 ;

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

(iii) in relation to Guernsey, the States Insurance Authority ;

(*f*) " statutory adoption " means—

(i) in relation to the United Kingdom, adoption within the meaning of the Adoption Act 1958, the Adoption of Children Act (Northern Ireland) 1950 or the Adoption of Children Act 1928 of the Isle of Man, as the case may require ;

(ii) in relation to Jersey, adoption within the meaning of the Adoption (Jersey) Law 1961 ;

(iii) in relation to Guernsey, adoption within the meaning of the Adoption (Guernsey) Law 1960 ;

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

(*h*) " contribution " means a flat-rate contribution ;

(*i*) " graduated contribution " means a contribution related to earnings ;

(*j*) " voluntary contribution ", in relation to any country, means a contribution which an insured person has paid under the legislation of that country for any week of absence from that country, being a week for which he was not liable to pay a contribution under that legislation ;

(*k*) " fund " means—

(i) in relation to the United Kingdom, the National Insurance Fund, the Industrial Injuries Fund, the Northern Ireland National Insurance Fund, the Northern Ireland Industrial Injuries Fund, the Manx National Insurance Fund or the Isle of Man Industrial Injuries Fund, as the case may require ;

(ii) in relation to Jersey, the Jersey Insular Insurance Fund ; and

(iii) in relation to Guernsey, the Guernsey Insurance Fund ;

(*l*) any reference to a contribution paid under the legislation of one country includes a reference to a contribution treated as paid under that legislation ;

(*m*) "standard rate of benefit" means, in relation to any country, the rate of retirement pension which would be payable under the legislation of that country to a person who fully satisfied all the conditions for that pension;

(*n*) other expressions have the meanings respectively assigned to them in the legislation of the United Kingdom, Jersey 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 1965, the National Insurance Act (Northern Ireland) 1946, the National Insurance (Isle of Man) Act 1948 and the legislation repealed or consolidated by, or repealed by enactments consolidated by, those Acts;

(ii) the National Insurance (Industrial Injuries) Act 1965, the legislation consolidated by that Act, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 and the National Insurance (Industrial Injuries) (Isle of Man) Act 1948;

(*b*) in relation to Jersey, to the Insular Insurance (Jersey) Law 1950;

(*c*) in relation to Guernsey, to the Social Insurance (Guernsey) Law 1964 and the legislation repealed by that Law.

(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 fourth country.

ARTICLE 3

Payment of Contributions

(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 another country, contributions in respect of that employment shall be payable 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, if his employment in the latter country has lasted for as long as twelve months, this paragraph shall cease to apply to him unless the competent authorities of the two countries otherwise agree in any particular case.

(2) Where a person in the Government service of one country goes in the course of that employment to work in another 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 six months of the beginning of that employment in the latter country or of the time when those provisions cease 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 the latter country, contributions in respect of that employment shall be payable 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.

(3) The competent authorities of any two countries or all three countries may provide by agreement that paragraph (1) of this Article shall not apply in particular cases.

(4) Where in any week an insured person is employed in any two countries by the same employer, neither he nor his employer shall be liable, under the legislation of one of these countries, to pay a contribution for that week in respect of that employment if they have so paid contributions under the legislation of the other country.

(5) Where, by virtue of the provisions of paragraph (1), (2) or (4) of this Article, an insured person is relieved of the liability to pay a contribution for any week as an employed person under the legislation of any country, he shall not be liable to pay a contribution for that week as a self-employed or non-employed person under that legislation.

(6) Where an insured person in the service of an employer is entitled to receive holiday pay from that employer for the whole or part of any week and has paid a contribution as an employed person under the legislation of one country for that week in respect of that employment, he shall not be liable, under the legislation of another country—

(*a*) to pay a contribution as an employed person for that week unless the latter country is the United Kingdom and he is employed there by another employer;

(*b*) to pay a contribution as a self-employed person for that week unless the latter country is Jersey;

(*c*) to pay a contribution as a non-employed person for that week.

(7) A person who, but for the provisions of this paragraph, 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 another 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 another country;

shall be liable, subject to the provisions of paragraph (6) of this Article, in either case to pay only the former contribution unless the latter country is Jersey and he is ordinarily resident there.

(8) An insured person who, under the legislation of one country, has paid a contribution for any week as a self-employed person or as a non-employed person shall not be liable, under the legislation of another country, to pay a contribution for that week, respectively, as a self-employed person or as a non-employed person unless the latter country is Jersey and he is ordinarily resident there.

(9) Nothing in this Article shall prevent an insured person from paying a contribution for any week as a non-employed person under the legislation of Guernsey if, by virtue of paragraph (2) of Article 12 of this Agreement, the provisions of paragraph (1) of that Article do not apply to him in relation to that week.

ARTICLE 4

(1) 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 another country shall be treated as if he were domiciled or had a place of residence in the former country.

(2) 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 or vessel which is registered or owned in another country and engaged in regular trade between any two countries or all three countries; or

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

the legislation of the country in which he is ordinarily resident shall apply to him as if, as the case may be, the ship or vessel were registered or owned in that country or the aircraft were registered in that country, and contributions shall not be payable in respect of that employment under the legislation of any other country.

(3) The competent authorities of any two countries or all three countries may provide by agreement that paragraph (2) of this Article shall not apply in particular cases.

Credited Contributions, Exception from Liability and Refund of Contributions

ARTICLE 5

(1) For the purpose of determining whether an insured person is excepted from liability to pay a contribution for any week under the legislation of one country or entitled to have a contribution credited to him for that week under that legislation, any contribution which he has paid or had credited to him under the legislation of another 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.

(2) For the purpose of determining whether a woman who is in one country is liable to pay a contribution for any week under the legislation of that country or entitled so to pay a contribution, any widow's benefit which she is entitled to receive for that week under the legislation of another country shall be treated as if it were widow's benefit which she was entitled to receive under the legislation of the former country.

(3) Where a person is entitled to receive sickness benefit, injury benefit or retirement pension for any week under the legislation of one country, he shall be excepted from liability to pay a contribution as a non-employed person for that week under the legislation of another country.

(4) Where an insured person has paid contributions for the same week under the legislation of Guernsey and under the legislation of another country, the competent authority of Guernsey, at the request of the insured person, may refund a part of the contribution paid under the legislation of Guernsey, namely, that part, as determined by that authority, which is related to retirement pension and widow's benefit, provided that—

(*a*) the provisions of sub-paragraph (*b*) of paragraph (2) of Article 12 of this Agreement do not apply to the insured person ; and

(*b*) either—

(i) the insured person has paid 156 voluntary contributions under the legislation of the other country concerned before 4th January 1965 and is a man who has reached the age of 60 on 4th April 1966 or a woman who has reached the age of 55 on that date ; or

(ii) the week in question is part of a contribution year which begins before 4th April 1966.

Sickness Benefit

ARTICLE 6

(1) Where an insured person who is ordinarily resident in one country and ordinarily pays contributions as an employed or self-employed person under the legislation of that country claims sickness benefit under that legislation, any contribution which he has paid or had credited to him under the legislation of another 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.

(2) Where an insured person, having become liable to pay contributions as an employed or self-employed person under the legislation of one country since his last arrival in that country, claims sickness benefit under that legislation, any contribution which he has paid or had credited to him under the legislation of another 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) In determining whether a person has exhausted his right to sickness benefit under the legislation of one country or requalified for sickness benefit under that legislation, account shall be taken of any sickness benefit which he has been entitled to receive under the legislation of another country and of any contribution which he has paid under that legislation.

ARTICLE 7

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

(2) Where, in accordance with the provisions of paragraph (1) or (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 another country, he shall be treated, for the purpose of any right to 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 paragraphs (1) and (2) of Article 6 of this Agreement 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 another country.

Maternity Grant

ARTICLE 8

(1) For the purpose of any claim to receive a maternity grant under the legislation of one country, a woman who is in, or is confined in, another country, shall be treated as if she were, respectively, in, or confined in, the former country.

(2) Where, but for the provisions of this paragraph, a woman would have been entitled to receive maternity grants for the same confinement under the legislation of two countries or all three countries, she shall not be entitled to receive grants under the legislation of more than one country, but shall be entitled to choose under which legislation she will receive a grant or grants.

ARTICLE 9

(1) The provisions of this Article shall apply only to those contributions, paid or credited under the legislation of any country, which could be taken into account for the purpose of any claim to receive a maternity grant under that legislation.

(2) If a woman who is confined in any country is not entitled, apart from the provisions of this Article, to receive a maternity grant under the legislation of any country, then, for the purpose of her claim to receive a grant under the legislation of that country under whose legislation a contribution was last paid by her husband or herself before her confinement, any contribution paid or credited under the legislation of another country shall be treated as if it were, respectively, a contribution paid or credited under the legislation of the former

country, but, where a maternity grant is paid by virtue of this paragraph, its amount shall not exceed the amount of the grant which would have been payable under the legislation of the latter country:

Provided that, for this purpose, the amount of the grant which would have been payable under the legislation of the latter country may, at the discretion of the competent authority of the former country, be deemed to include any home confinement grant which would have been payable under that legislation if the woman had been confined in the latter country.

Unemployment Benefit

ARTICLE 10

(1) If an insured person who is ordinarily resident in one country and ordinarily pays contributions as an employed person under the legislation of that country claims unemployment benefit under that legislation, then, for the purpose of any condition requiring a prescribed number of contributions to have been paid or credited under that legislation in a relevant contribution year, any contribution which he has paid or had credited to him under the legislation of another 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.

(2) 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 another country shall be treated as if it were a period during which he was resident in the former country.

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

Retirement Pensions and Widows' Benefit

ARTICLE 11

Where contributions have been credited to a woman as a non-employed person for any period of widowhood under the legislation of two countries or all three countries, these contributions shall be disregarded, for the purpose of calculating the yearly average of the contributions which she has paid or had credited to her under the legislation of each of these countries, in so far as the number credited to her under that legislation in any contribution year, falling wholly or partly within that period, exceeds the number of weeks in that year, multiplied by the ratio of the number of contributions paid by her husband or credited to him under that legislation to the number of contributions paid by him or credited to him under the legislation of both countries or all three countries, as the case may be, contributions which are not taken into account for the purpose of the yearly average being ignored.

ARTICLE 12

(1) For the purpose of calculating the yearly average of the contributions which an insured person has paid or had credited to him under the legislation of one country, any contributions which he has paid or had credited to him in any contribution year under that legislation shall be disregarded in so far as they raise the sum of their number and the corresponding number for the same contribution year of another country which provides a higher standard rate of benefit, or, being the country where the claimant is resident at the time when he first claims benefit or was last resident before that time, provides an equal standard rate of benefit, above the number of weeks in that year:

Provided that, if the insured person is a woman to whom the provisions of Article 11 of this Agreement are applicable, those provisions shall be applied before the provisions of this Article are applied.

(2) The provisions of paragraph (1) of this Article shall not apply, if one of the countries concerned is Guernsey—

(*a*) to any contribution year which begins before 4th April 1966 ;

(*b*) to any insured person who was insured under the legislation of Guernsey immediately before 4th January 1965 and, before that date, had paid 156 contributions under the legislation of Guernsey and 156 voluntary contributions under the legislation of the other country concerned.

ARTICLE 13

For the purpose of calculating the yearly average of the contributions which a woman 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, her husband has paid contributions or had contributions credited to him, and she is entitled to receive a retirement pension or widow's benefit under the legislation of the latter country by virtue of her husband's insurance or has chosen to have her husband's contributions taken into account in determining her right to receive a retirement pension under that legislation by virtue of her own insurance, her marriage having been terminated by the death of her husband or otherwise.

ARTICLE 14

(1) For the purpose of determining whether a retirement pension or widow's benefit is payable under the legislation of one country, any contribution which an insured person has paid or had credited to him under the legislation of the other two countries shall be treated as if it were a contribution which he had, respectively, paid or had credited to him under the legislation of the first country ; and, where such benefit is so payable, the rate of that benefit shall be the sum of the following two amounts:—

(*a*) a part of the benefit which would have been payable under the legislation of the first country if the insured person had paid no contributions under the legislation of any country after reaching pensionable age, as determined under the legislation of the first country, and every contribution which he has paid or has had credited to him under the legislation of the other two countries were, respectively, a contribution which he had paid or had had credited to him under the legislation of the first country, namely, that part which bears the same relation to the whole as the total of all the contributions which he has paid or had credited to him under the legislation of the first country bears to the total of all the contributions which he has paid or had credited to him under the legislation of all three countries, contributions which are not taken into account for the purpose of the yearly average being ignored in both cases ; and

(*b*) a part of the amount by which the benefit would have been increased under the legislation of the first country if all the contributions which the insured person has paid as an employed or self-employed person after reaching pensionable age, as determined under that legislation, had been paid under that legislation, namely, that part which bears the same relation to the whole as the number of contributions which he has paid as an employed or self-employed person under the legislation of the first country after reaching that age bears to the total of all the contributions which he has paid as an employed or self-employed person under the legislation of all three countries after reaching that age.

(2) For the purpose of applying the provisions of paragraph (1) of this Article—

(*a*) no account shall be taken of any contribution which is disregarded in accordance with the provisions of Article 11, 12 or 13 of this Agreement or of any contribution of which any part has been refunded in accordance with the provisions of paragraph (4) of Article 5 of this Agreement or otherwise ;

(*b*) no account shall be taken of any graduated contributions which the insured person has paid under the legislation of any country or of any right to an increase of benefit related to the earnings of the insured person; but the rate of any benefit calculated in accordance with the provisions of that paragraph shall be increased by any graduated or earnings-related benefit which is payable under that legislation;

(*c*) if the claimant is a woman claiming a retirement pension by virtue of her husband's insurance or a woman who has chosen to have her husband's contributions taken into account in determining her right to receive a retirement pension by virtue of her own insurance, her marriage having been terminated by the death of her husband or otherwise, any reference to a contribution paid by her or credited to her shall be deemed to include a reference to a contribution paid by him or credited to him;

(*d*) the yearly average of the contributions which an insured person has paid or had credited to him shall be calculated over a period beginning—

(i) under the legislation of Guernsey, at the date which is appropriate for the United Kingdom or, if he has not paid any contributions under the legislation of the United Kingdom other than contributions to which the provisions of sub-paragraph (*e*) of this paragraph apply, at the date which is appropriate for Jersey;

(ii) under the legislation of Jersey, at the date which is appropriate for the United Kingdom if the insured person became insured under the legislation of the United Kingdom before he became insured under the legislation of Jersey;

(*e*) if the number of contributions which an insured person has paid or had credited to him under the legislation of one country, other than contributions which have been credited to him for any period before he became insured under that legislation, is less than 50, these contributions shall be treated as if they had been paid or credited under the legislation of the country under whose legislation his number of contributions, paid or credited, is greatest, and no benefit shall be payable under the legislation of the former country.

(3) The provisions of paragraph (1) of this Article shall apply, in relation to any two countries or all three countries, only if, apart from those provisions—

(*a*) contributions relevant to the benefit in question have been paid under the legislation of each of these countries;

(*b*) the contribution conditions for the benefit in question are not satisfied, wholly or partly, under the legislation of one or two or all of these countries;

(*c*) the other conditions for the benefit in question are satisfied under the legislation of each of these countries.

(4) If at any time 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 at any later time.

(5) Where, in accordance with the provisions of this Article, a person is entitled to receive a retirement pension or widow's benefit under the legislation of two countries or all three countries, and the total 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 total is less than that benefit.

ARTICLE 15

(1) The provisions of this Article shall apply only to any retirement pension or widow's benefit which is payable under the legislation of any country.

(2) For the purpose of any right to receive benefit under the legislation of one country, a person who is in another country or resident in that other country

shall be treated as if he were, respectively, in the former country or resident there:

Provided that, if benefit is payable to him under the legislation of two countries or all three countries, the rate at which benefit (other than any increments related to contributions which he has paid after reaching pensionable age or any graduated benefit) is paid under the legislation of any country in which he is not resident shall not be increased by reason of this Article so as to exceed the greater of the following two amounts:

(*a*) the rate at which it would be payable in accordance with those provisions of the legislation of that country which concern the payment of benefit to persons who are not resident in that country; and

(*b*) any amount by which one-half of the benefit payable to him under the legislation of the other country or the other two countries, as the case may be, is less than the highest standard rate of benefit that would be payable in his case under the legislation of any country if he were resident in that country.

Guardian's Allowance

ARTICLE 16

(1) For the purpose of any claim to receive a guardian's allowance under the legislation of one country—

(i) any parent of the child in question who was insured under the legislation of another country shall be treated as if he had been insured under the legislation of the former country;

(ii) the statutory adoption of a child in another country shall be treated as if it were a statutory adoption in the former country.

(2) Where, but for the provisions of this paragraph, guardians' allowances would have been payable under the legislation of two countries for the same child, an allowance shall be paid only under the legislation of the country in which the child is ordinarily resident.

Death Grant

ARTICLE 17

(1) For the purpose of any claim to receive a death grant under the legislation of one country, a death which occurred in another country shall be treated as if it had occurred in the former country.

(2) Where, but for the provisions of this paragraph, a death grant would have been payable under the legislation of one country and there would have been payable in respect of the same death, under the legislation of another country, either no death grant or a grant of the same amount or less, any contribution which has been paid or credited under the legislation of the latter country shall be treated as if it were a contribution which had been, respectively, paid or credited under the legislation of the former country.

(3) Where, but for the provisions of this paragraph, death grants would have been payable in respect of the same death under the legislation of two countries or all three countries, only the greater or the greatest of these grants shall be paid, or, if two equal grants would have been payable under the legislation of two countries, with or without a smaller grant under the legislation of the third country, a grant shall be paid only under the legislation of one of those two countries, namely, that country under whose legislation the last relevant contribution was paid before the death in question.

(4) If a death occurs in any country and, apart from the provisions of this paragraph, no death grant is payable in respect of that death under the legislation of any country, then, for the purpose of a claim to receive a grant under the legislation of that country under whose legislation the last relevant contribution was paid before the death, any contribution paid or credited under the legislation

of another country shall be treated as if it were, respectively, a contribution paid or credited under the legislation of the former country, but, where a death grant is paid by virtue of this paragraph, its amount shall not exceed the amount of the grant which would have been payable under the legislation of the latter country.

(5) The provisions of this Article shall apply only to those contributions, paid or credited under the legislation of any country, which could be taken into account for the purpose of any claim to receive a death grant under that legislation in respect of the death in question.

Industrial Injuries and Accident Benefits

ARTICLE 18

(1) Where, under the legislation of one country, a person would be entitled to receive any cash benefit in respect of an accident, industrial injury or industrial disease if he were in that country, he shall be entitled to receive that benefit while he is in another country.

(2) For the purpose of any claim to receive benefit in respect of an industrial accident happening or an industrial disease contracted in the course of employment to which the provisions of paragraph (1) or (2) of Article 3 of this Agreement apply, the insured person shall be treated as if—

(*a*) the accident had happened or the disease had been contracted in the country under whose legislation contributions were payable in respect of his employment; and

(*b*) the employment had been insurable under that legislation and not under the legislation of the country in which he was employed.

(3) If an accident happens to an insured person after he leaves one country to go in the course of his employment to another country and before he arrives in the latter country, then, for the purpose of any claim to receive 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 latter country; and

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

Dependants

ARTICLE 19

(1) Where, under the legislation of one country, any benefit or increase of benefit would be paid in respect of a dependant (other than a child to whom paragraph (2) of this Article applies) if the dependant were in that country, that benefit or increase of benefit shall be paid if the dependant is in another country.

(2) Where, under the legislation of one country, any increase of benefit or any benefit, other than guardian's allowance, would be paid in respect of a child or in respect of a dependant having the care of a child, if the child were in that country, that increase of benefit or that benefit, as the case may be, shall be paid if the child is in another country.

(3) Where, under the legislation of one country, a person would be entitled to widow's benefit or benefit in respect of a death due to an industrial injury or disease, if a child were in that country or had been there at the time when one of his parents died or at any other specified time, he shall be entitled to that benefit if the child, as the case may be, is in another country or was in another country at that time.

(4) For the purpose of this Article, a child in one country who would be excluded from any family under the legislation of that country shall be treated as if he were excluded from any family under the legislation of another country.

Overlapping Benefits

ARTICLE 20

(1) Where, but for the provisions of this Article, benefit would have been payable to any person under the legislation of two countries for the same period, an adjustment shall be made, subject to the provisions of this Article, under the legislation of one of these countries, namely, that country where the insured person is at the beginning of the period or, if he is in neither country at that time, that country where he is ordinarily resident or, if he is not ordinarily resident in either country, that country where he was last ordinarily resident or, if the competent authorities of the two countries so agree, the other country.

(2) Where benefit is payable to any person for any period under the legislation of one country and, but for the provisions of this Article, an increase of benefit would have been payable in respect of that person for the same period under the legislation of another country, an adjustment shall be made, subject to the provisions of this Article, under the legislation of the latter country.

(3) For the purpose of an adjustment specified in either of the foregoing paragraphs of this Article, the benefit which would otherwise have been payable under the legislation of the country specified in that paragraph shall be reduced by any amount by which the sum of the two benefits exceeds the sum which would have been payable under that legislation if the benefit payable under the legislation of the other country had been the corresponding benefit of the former country.

(4) The provisions of paragraph (3) of this Article shall not apply in any case where retirement pensions are payable to the same person under the legislation of two countries, or widow's benefit under the legislation of two countries, or a retirement pension under the legislation of one country and widow's benefit under the legislation of another country. In such a case—

(*a*) the beneficiary shall not be entitled, unless his benefit rate has been determined under the legislation of both countries in accordance with the provisions of paragraph (1) of Article 14, to receive increase of benefit for any child under the legislation of both countries, but shall be entitled to choose under which legislation he will receive such increase ; and

(*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 or the reduction of the rate of benefit on account of earnings, 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:

Provided that there shall be no reduction of the rate of widow's benefit on account of earnings, if the benefit is payable under the legislation of the United Kingdom or if the country specified in paragraph (1) of this Article is the United Kingdom or if the beneficiary is ordinarily resident in the United Kingdom.

Other Provisions concerning Benefit

ARTICLE 21

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

(2) Any overpayment which is recoverable by deduction from benefit under the legislation of one country shall be recoverable by deduction from benefit under the legislation of another country as if the overpayment had been made under the legislation of the latter country.

(3) Where a person has received any sum by way of benefit under the legislation of one country, and it is found that he was not entitled to that sum but was entitled to benefit for the same period or in respect of the same event under

the legislation of another 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.

(4) Any claim or appeal which is made, or any notice which is given, or any question which is raised under the legislation of one country may, if the competent authorities so agree, be treated as if it had been made or given or raised, as the case may be, under the legislation of another country.

Miscellaneous Provisions

ARTICLE 22

(1) The competent authorities shall, from time to time, determine the procedure appropriate for the purposes of this Agreement, including 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 another 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 competent authorities shall make such financial adjustments between the funds of the three countries as they may agree to be necessary for the purposes of this Agreement.

(4) The existing Agreement on Social Security, which was signed by the Minister of Pensions and National Insurance, the Minister of Labour and National Insurance for Northern Ireland, the Lieutenant-Governor of the Isle of Man, and the Greffier of the States of Jersey in 1962, and the existing Agreement on Social Security, which was signed by the Minister of Pensions and National Insurance, the Minister of Health and Social Services for Northern Ireland, the Lieutenant-Governor of the Isle of Man and the President of the States Insurance Authority of Guernsey in 1965, shall be terminated on the coming into force of this Agreement, but no provision of this Agreement shall diminish any right which a person has acquired under the legislation of any country before the date of entry into force of this Agreement, whether by virtue of one of the existing agreements or otherwise.

(5) This Agreement shall come into force on 4th April 1966 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 first part, or the Social Security Committee of Jersey, of the second part, or the States Insurance Authority of Guernsey with the consent of the States of Guernsey, of the third 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 24th day of March 1966.

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 25th day of March 1966.

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 26th day of March 1966.

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 Social Security Committee this 29th day of March 1966 and authorised by Act of the States of Jersey dated the 22nd day of March 1966.

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 30th day of March 1966.

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 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 Act 1965 and the National Insurance (Industrial Injuries) Act 1965.