STATUTORY INSTRUMENTS

1972 No. 1588

SOCIAL SECURITY

The National Insurance and Industrial Injuries (Jersey and Guernsey) Order 1972

Made - - - - *23rd October* 1972

At the Court at Windsor Castle, the 23rd day of October 1972

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 105(1) of the National Insurance Act 1965(a), and section 84(1) 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 1972.

(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 Orders revoked by it as if this Order and the Orders revoked by it were Acts of Parliament, and as if each revocation were a repeal.

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 either section 105(1) of the National Insurance Act 1965 or section 84(1) of the National Insurance (Industrial Injuries) Act 1965; and the National Insurance Acts 1965 to 1972 and the National Insurance (Industrial Injuries) 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 Orders

3. The National Insurance and Industrial Injuries (Jersey and Guernsey) Order 1966(d) and the National Insurance and Industrial Injuries (Jersey and Guernsey) Order 1967(e) are hereby revoked.

W. G. Agnew.

(a) 1965 c. 51.
(b) 1965 c. 52.
(c) 1889 c. 63.
(d) S.I. 1966/402 (1966 I, p. 891).
(e) S.I. 1967/817 (1967 II, p. 2440).

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE SECRETARY OF STATE FOR SOCIAL SERVICES, 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 SECURITY CONSTITUTED UNDER THE ISLE OF MAN BOARD OF SOCIAL SECURITY ACT 1970, 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.

PART I: DEFINITIONS AND SCOPE

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 Secretary of State for Social Services, the Ministry of Health and Social Services for Northern Ireland, or the Isle of Man Board of Social Security, 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 Acts 1958 and 1968, the Adoption Act (Northern Ireland) 1967, the Adoption (Hague Convention) Act (Northern Ireland) 1969 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) Laws 1961 and 1965;

(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*) "voluntary contribution", in relation to any country, means a contribution which a 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;

(*j*) "contribution of the appropriate class" means a contribution having effect for the purpose of the benefit in question;

(*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*) "old age benefit" means retirement pension (other than graduated retirement benefit) and age addition where payable under the legislation of the United Kingdom or old age pension under the legislation of Jersey or Guernsey;

(*n*) "sickness benefit" includes invalidity benefit as defined under the legislation of the United Kingdom;

(*o*) "standard rate of benefit" means, in relation to any country, the rate of old age benefit or widow's benefit, as the case may be, which would be payable under the legislation of that country, if all the conditions for that benefit were fully satisfied;

(*p*) 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) 1966, 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 National Insurance (Industrial Injuries) Act 1965, the legislation consolidated by that Act, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 and the National Insurance (Industrial Injuries) (Isle of Man) Act 1971;

(*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.

PART II: CONTRIBUTIONS

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 twenty-four 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 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 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 of all three countries may provide by agreement—

(*a*) that paragraph (1) of this Article shall not apply in particular cases;

(*b*) that paragraph (2) of this Article shall apply to persons in the service of any public corporation of one country, being a public corporation designated by them, in the same way as it applies to persons in the Government service of that country.

(4) Where in any week a 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 paragraphs (1), (2) or (4) of this Article, a 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 a 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, to pay a contribution for that week as an employed person or as a self-employed person or as a non-employed person.

(7) A person who, but for the provisions of this paragraph, would be liable to pay in respect of any week—

(*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 shall be liable to pay only the contribution as an employed person.

(*b*) a contribution as a self-employed or a non-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 shall be liable to pay a contribution only in the country under whose legislation liability first arises in that week.

(8) A person who has paid a contribution for which he is liable for any week under the legislation of one country shall not be entitled to pay a voluntary contribution under the legislation of another country for the same week; provided that—

(*a*) for the purpose of calculating the yearly average of contributions which a 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 under that legislation for any contribution year after the contribution year which includes 4 April 1966 and before the date on which this agreement comes into force shall for the purpose of widow's benefit and retirement pension 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;

(*b*) this paragraph shall not apply to a person who was insured under the legislation of Guernsey immediately before 4 January 1965 and who before that date had paid 156 contributions under that legislation and 156 voluntary contributions under the legislation of the other country concerned.

ARTICLE 4

(1) For the purpose of those provisions of the legislation of one country which relate to mariners, airmen and the crew of hovercraft, 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, vessel or hovercraft 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, vessel or hovercraft 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 and Exception from Liability

ARTICLE 5

(1) For the purpose of determining whether a 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) Where a woman is entitled to receive widow's benefit under the legislation of one country and to have contributions credited to her as a non-employed person under that legislation, or is entitled to receive old age benefit under that legislation, the widow's benefit or old age benefit, as the case may be, shall be treated, for the purpose of determining whether she is liable to pay a contribution under the legislation of another country or entitled so to pay a contribution, as if it were a widow's benefit which she was entitled to receive under the legislation of the latter country.

(3) A person entitled to receive sickness benefit, injury benefit or old age benefit for any week under the legislation of one country, shall be excepted from liability to pay a contribution for that week under the legislation of another country, unless the latter country is Guernsey and either:

(*a*) the person has chosen to be treated as if he or she were not entitled to receive old age benefit under the legislation of that country; or

(*b*) she is a person below age 65 who is in receipt of an old age benefit under the legislation of another country.

PART III: SHORT TERM BENEFITS

Sickness Benefit and Unemployment Benefit

ARTICLE 6

For the purpose of any claim to sickness benefit or unemployment benefit under the legislation of one country, any contribution of the appropriate class paid by or credited to a person under the legislation of another country shall be treated as if it were a con-

tribution of the same class which had, respectively, been paid by or credited to that person under the legislation of the former country, provided that—

(*a*) he is ordinarily resident in the former country and ordinarily pays contributions of the appropriate class under the legislation of that country or would, but for his incapacity for work or unemployment so pay contributions; or

(*b*) he has become liable to pay contributions of the appropriate class under the legislation of the former country since his last arrival in that country.

Provided that, in the case of unemployment benefit under the legislation of Guernsey, the person has actually paid at least 26 contributions under the legislation of Guernsey.

ARTICLE 7

For the purpose of any claim to unemployment benefit under the legislation of one country, any period during which a person was resident in another country before the date of his claim shall be treated as if it were a period during which he was resident in the country in which he makes his claim.

ARTICLE 8

Where a person would be entitled to receive sickness benefit under the legislation of one country if he were in that country and the provisions of Article 6 do not apply to him, he shall be entitled to receive that benefit while he is in another country.

Maternity Allowance

ARTICLE 9

The provisions of Articles 6 and 8 concerning sickness benefit shall apply also to maternity allowances.

Exhaustion of Benefit Rights

ARTICLE 10

In determining whether a person has exhausted his right to benefit under the legislation of one country or requalified for benefit under that legislation, account shall be taken of any benefit of the same kind which he has been entitled to receive under the legislation of another country and of any contribution of the appropriate class which he has paid under the legislation of the latter country as if it were respectively benefit or contribution under the legislation of the former country.

Maternity Grants

ARTICLE 11

(1) For the purpose of any claim to 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 or all three countries, she shall be entitled to receive a grant or grants only under that legislation under which the grant or the sum of the grants is greater or, if grants of equal amounts would have been payable, under the legislation under which the last relevant contribution had been paid. For the purpose solely of this sub-paragraph a maternity grant shall be treated as including a home confinement grant under the legislation of Jersey.

(3) If, but for the provisions of this paragraph, a woman would not be entitled to a maternity grant under the legislation of any country, then, for the purpose of her claim to receive a grant or grants under the legislation of the country in which she is confined or, if she is not confined in any country, under the legislation of that country in which she was last ordinarily resident before her confinement, any contribution of the

appropriate class paid or credited under the legislation of another country shall be treated as if it were, respectively, a contribution of the same class paid or credited under the legislation of the former country.

Death Grants

ARTICLE 12

(1) For the purpose of any claim to 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, death grants would have been payable in respect of the same death under the legislation of two or all three countries, only the greater or greatest of these grants shall be paid or if grants of equal amounts would have been payable, a grant shall be paid only under the legislation under which the last relevant contribution had been paid.

(3) If, but for the provisions of this paragraph, no death grant would have been payable in respect of a death under the legislation of any country, then, for the purpose of a claim to a grant under the legislation of the country in which the death occurred or, if it did not occur in any country, under the legislation of that country in which the deceased was last ordinarily resident before his death, any contribution of the appropriate class paid or credited under the legislation of another country shall be treated as if it were, respectively, a contribution of the same class paid or credited under the legislation of the former country.

PART IV: OLD AGE BENEFIT AND WIDOW'S BENEFIT

Contributions Credited to Widows

ARTICLE 13

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, those contributions shall be disregarded, for the purpose of calculating the yearly average of the contributions which she had paid or had credited to her under the legislation of each of those 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.

Provided that, if the effect of this Article would be to reduce the total amount of benefit (other than increase of benefit related to earnings and increments related to contributions paid after pensionable age) payable to a woman under the legislation of the countries concerned to less than it was before the widow's benefit payable to her under the legislation of one or more of those countries was replaced by old age benefit, then the old age benefit payable to her shall be paid at the rate or rates at which widow's benefit would have been payable if her widow's benefit had not been replaced by old age benefit.

Double Benefit

ARTICLE 14

(1) Subject to the provisions of paragraph (2) of this Article, a woman shall not be entitled to receive for the same period both—

(*a*) old age benefit payable by virtue of her own insurance under the legislation of one country; and

(*b*) widow's benefit, or old age benefit payable by virtue of her husband's insurance, or old age benefit payable by virtue of her own insurance but based wholly or

partly on her husband's record of contributions under the legislation of another country.

(2) If a woman was married before 1 June 1967—

(*a*) paragraph (1) of this Article shall not apply to her; but

(*b*) subject to the provisions of paragraphs (3) and (4) of this Article, for the purpose of calculating the yearly average of the contributions which she 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 receiving, under the legislation of the latter country, widow's benefit or old age benefit payable by virtue of the husband's insurance or old age benefit payable by virtue of her own insurance but based wholly or partly on the husband's record of contributions.

(3) Where a man and a woman were married before 4 April 1966 and, immediately before 4 January 1965, one of them was insured under the legislation of Guernsey and had paid 156 contributions under that legislation, and the other had paid 156 contributions under the legislation of another country, the provisions of sub-paragraph (*b*) of paragraph (2) of this Article shall not apply to the woman.

(4) If a woman was married before 4 April 1966 and paragraph (3) of this Article does not apply to her, sub-paragraph (*b*) of paragraph (2) of this Article shall apply to her only in relation to any period after 4 April 1966.

Determination of Benefit Rights

ARTICLE 15

Where the contribution conditions for old age benefit or widow's benefit are satisfied under the legislation of any country the benefit shall be paid, subject to the provisions of that legislation, and to the provisions of Articles 3(8), 13 and 14 of this Agreement.

ARTICLE 16

(1) Where, but for the provisions of this Article, no old age benefit or widow's benefit would be payable under the legislation of one country but such benefit would be so payble if the number of contributions paid by the insured person under the legislation of the other two countries were added to the number paid by him under the legislation of the first country and the sum of his yearly averages under the legislation of those other two countries were added to his yearly average under the legislation of the first country, and in the case of a married woman, the number of contributions paid and credited in respect of her under the legislation of the other two countries were added to the number of contributions paid and credited in respect of her under the legislation of the first country, old age benefit or widow's benefit, as the case may be, shall be payable under the legislation of the first country.

(2) Where old age benefit or widow's benefit is payable under the legislation of one country by virtue of paragraph (1) of this Article, the rate of that benefit shall be a part of the rate at which it would be paid if the number of contributions paid under the legislation of the other two countries were added to the number paid under the legislation of the first country and the sum of the yearly averages under the legislation of those other two countries were added to the yearly average under the legislation of the first country, namely, that part which bears the same relation to the whole as the yearly average under the legislation of the first country bears to the sum of the yearly averages under the legislation of the three countries.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply in relation to any two countries or all three countries only if, apart from those provisions, the conditions for the benefit in question other than contribution conditions are satisfied under the legislation of each of these countries, widow's benefit being treated for this purpose as if it were old age benefit, and conversely.

(4) Where the yearly average under the legislation of one country is less than two, no benefit shall be payable under that legislation by virtue of the provisions of paragraph (1) of this Article and that yearly average shall be added to the yearly average under the legislation of the other country or to the higher yearly average under the legislation of the other countries.

(5) For the purpose of applying the provisions of paragraphs (1) and (2) of this Article—

(*a*) no account shall be taken of any right to an increase of benefit related to the insured person's earnings, but any such increase shall be added to the rate of any benefit calculated in accordance with the provisions of paragraph (2) of this Article;

(*b*) no account shall be taken of any contribution which is disregarded in accordance with the provisions of Articles 3(8), 13 or 14 of this Agreement.

ARTICLE 17

Where a claim to old age benefit or widow's benefit has been determined before the entry into force of this Agreement, it shall not be determined afresh in accordance with the provisions of Article 15 or Article 16 of the Agreement.

ARTICLE 18

For the purpose solely of the condition under the legislation of the United Kingdom that the number of contributions paid by or credited to a married woman in respect of the period between the date of the marriage and her attaining pensionable age is not less that one-half of the number of complete contribution weeks in that period, any contribution paid by or credited to her under the legislation of Guernsey during that period shall be treated as if it were a contribution paid by or credited to her under the legislation of the United Kingdom.

Unemployment Benefit and Sickness Benefit after pensionable age

ARTICLE 19

(1) If a person would be entitled to receive old age benefit under the legislation of the United Kingdom, had he retired from regular employment, and would be entitled also, by virtue of the provisions of Article 16 of this Agreement to receive old age benefit under the legislation of one or both of the other two countries, then, for the purpose of those provisions of the legislation of the United Kingdom which concern the payment of unemployment benefit or sickness benefit to persons who are over pensionable age, the rate at which old age benefit would be payable to him under that legislation, if he had retired, shall be deemed to include the rate or rates at which old age benefit would be payable to him under the legislation of one or both of those other two countries.

(2) If a person has chosen to be treated as if he were not entitled to receive old age benefit under the legislation of Guernsey and would be entitled, by virtue of the provisions of Article 16 of this Agreement, to receive old age benefit under the legislation of one or both of the other two countries, had he not so chosen, then, for the purpose of those provisions of the legislation of Guernsey which concern the payment of unemployment benefit or sickness benefit to persons who are over pensionable age, the rate at which old age benefit would be payable to him under that legislation, had he not so chosen, shall be deemed to include the rate or rates at which old age benefit would be payable to him under the legislation of one or both of the other two countries.

Benefit of one country payable in the other two countries

ARTICLE 20

(1) The provisions of this Article shall apply only to any old age benefit 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.

PART V: GUARDIAN'S ALLOWANCE

ARTICLE 21

(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 provision 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.

PART VI: INDUSTRIAL INJURIES AND ACCIDENT BENEFITS

ARTICLE 22

(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 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 a 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.

PART VII: MISCELLANEOUS PROVISIONS

Dependants

ARTICLE 23

(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 24

(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 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:

Provided that this paragraph shall not apply—

(*a*) in any case where one of the countries concerned is Guernsey and the person is claiming the increase of old age benefit in respect of his wife who is receiving old age benefit on her own insurance, if they were married before 4 April 1966 and, immediately before 4 January 1965 one of them was insured under the legislation of Guernsey and had paid 156 contributions under that legislation and the other had paid 156 contributions under the legislation of the other country; or

(*b*) in any case where a woman is receiving old age benefit on her husband's insurance under the legislation of the United Kingdom or Jersey, and he is claiming an increase of old age benefit in respect of her under the legislation of Guernsey.

(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 old age benefit is payable to the same person under the legislation of two countries, or widow's benefit under the legislation of two countries, or old age benefit 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 Article 16 to receive increase or increases of benefit for any child or children under the legislation of both countries, but shall receive only such increase or increases under the legislation under which he is entitled to receive the highest increase or highest total of increases as the case may be;

(*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, 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.

Other Provisions concerning Benefit

ARTICLE 25

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

(2) 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.

(3) 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.

Final Provisions

ARTICLE 26

(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 three countries as they may agree to be necessary for the purposes of this Agreement.

(4) The existing Agreements on Social Security, which were 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, the Greffier of the States of Jersey and the President of the States Insurance Authority of Guernsey in 1966 and 1967, 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 2 October 1972 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 Secretary of State for Social Services, 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 Secretary of State for Social Services this 17th day of July 1972.

Keith Joseph,
Secretary of State for Social Services.

(L.S.)

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 25th day of July 1972.

(L.S.)

W. S. I. Whitelaw,
Secretary of State for Northern Ireland.

Given under the hand of the Lieutenant-Governor of the Isle of Man this 1st day of August 1972.

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 27th day of September 1972 and authorised by Act of the States of Jersey dated this 19th day of September 1972.

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

Signed on behalf of the States of Guernsey by the President of the States Insurance Authority this 4th day of September 1972.

E. H. Bodman,
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 Secretary of State for Social Services, 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 Security, 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 the matters for which provision is made by the National Insurance Acts 1965 to 1972 and the National Insurance (Industrial Injuries) Acts 1965 to 1972.

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