STATUTORY INSTRUMENTS

1962 No. 1656

NATIONAL INSURANCE

NATIONAL INSURANCE (INDUSTRIAL INJURIES)

The National Insurance and Industrial Injuries (Jersey) Order 1962

Made - - - - 30*th July* 1962

At the Court at Buckingham Palace the 30th day of July 1962

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 (Jersey) Order 1962.

(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 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 1961, and the National Insurance (Industrial Injuries) Acts 1946 to 1961, 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) 9 & 10 Geo. 6. c. 67. (b) 9 & 10 Geo. 6. c. 62. (c) 52 & 53 Vict. c. 63.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE MINISTER OF PENSIONS AND NATIONAL INSURANCE, THE MINISTRY OF LABOUR AND NATIONAL INSURANCE 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 SOCIAL SECURITY COMMITTEE WITH THE CONSENT OF THE STATES OF JERSEY, OF THE OTHER PART.

ARTICLE 1

Definitions and General Provisions

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

(*a*) "country" means the United Kingdom or Jersey, as the case may require, and "country of record" has the meaning assigned to it in Article 3;

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

(*c*) "Act" means, in relation to the United Kingdom, the National Insurance Act, 1946, the National Insurance Act (Northern Ireland), 1946, or the National Insurance (Isle of Man) Act, 1948, as the case may require, and, in relation to Jersey, the Insular Insurance (Jersey) Law, 1950;

(*d*) "the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act, 1946, the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, or the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948, as the case may require;

(*e*) "system" means, in relation to the United Kingdom, the system of social insurance established by the United Kingdom Acts and the Industrial Injuries Acts, and, in relation to Jersey, the system of social insurance established by the Jersey Act;

(*f*) "the Workmen's Compensation Acts" means the Workmen's Compensation Acts, 1925 to 1945, the enactments repealed by the Workmen's Compensation Act, 1925, the enactments repealed by the Workmen's Compensation Act, 1906, the Workmen's Compensation Acts (Northern Ireland), 1927 to 1943, the enactments repealed by the Workmen's Compensation Act (Northern Ireland), 1927, and the Workmen's Compensation Acts, 1919 to 1946, of the Isle of Man;

(*g*) "the Family Allowances Act" means the Family Allowances Act, 1945, the Family Allowances Act (Northern Ireland), 1945, or the Family Allowances (Isle of Man) Act, 1946, as the case may require;

(*h*) "the Accident Insurance Laws" means the Laws repealed by Article 61 of the Jersey Act;

(*i*) "competent authority" means, in relation to the United Kingdom, the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance for Northern Ireland, or the Isle of Man Board of Social Services, as the case may require, and, in relation to Jersey, the Social Security Committee;

(*j*) "determining authority" means the appropriate authority appointed to determine claims or questions under the United Kingdom system or the Jersey system, as the case may require;

(*k*) "statutory adoption" means, 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, and, in relation to Jersey, adoption within the meaning of the Adoption (Jersey) Law, 1961;

(*l*) "United Kingdom Fund" means 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;

(*m*) "Jersey Fund" means the Insular Insurance Fund;

(*n*) "week" (except in paragraph (5) of Article 3) means a contribution week;

(*o*) other expressions have the same meanings as in the United Kingdom system or the Jersey system, as the case may require.

(2) References in this Agreement to any enactment, order or regulation shall include a reference to such enactment, order or regulation as amended, modified, adapted, extended or supplemented by any subsequent enactment, order or regulation:

Provided that the said references shall include, only if the competent authorities so agree, references to enactments, orders or regulations which modify or adapt such enactment, order or regulation for the purpose of giving effect to the provisions of any agreement providing for reciprocity with a scheme of social security in force in a third country.

ARTICLE 2

Nothing in this Agreement shall confer a right to double benefit.

ARTICLE 3

Insurance and Country of Record

(1) A person who is insured under the Act of one country, but not under the Act of the other country, and is, on or after the date of coming into operation of this Agreement, in the latter country, shall be treated as if he fulfilled any prescribed conditions as to residence in the latter country which a person must fulfil in order to become insured under the Act of that country.

(2) Any election by a married woman who is a non-employed person to be liable to pay contributions or not to be excepted from insurance under the Act of one country shall have effect for the purposes of the Act of the other country.

(3) Where a person is insured under the Acts of both countries, the record of his insurance shall be kept in that one of the two countries which for the time being is the country (which shall be called "the country of record") ascertained in accordance with paragraphs (4) and (5) of this Article.

(4) In relation to a person who is insured under the Acts of both countries, the country under whose Act he was first insured shall be the country of record unless and until the other country shall become the country of record.

(5) If a person who is insured under the Acts of both countries either is, for an aggregate period of not less than 45 weeks in any contribution year, in the country which is not the country of record or has paid not less than 45 contributions as an insured person under the Act of that country in respect of contribution weeks in that year, that country shall, as from the beginning of the benefit year next following that contribution year, become the country of record for the time being, and that person's record shall be transferred to that country accordingly:

Provided that where, for any period, a person is in the country which is not the country of record and either—

(i) by virtue of the provisions of paragraph (2) of Article 4, contributions are payable for that period under the Act of the country of record; or

(ii) that person (being a married woman) is excepted from insurance or from liability to pay a contribution for that period under the Act of the country which is not the country of record by reason of her having made, failed to make or cancelled an election capable of being made or cancelled by her as a married woman; or

(iii) that person (being a widow) is excepted from liability to pay a contribution for that period under the Act of the country which is not the country of record by reason that she is, or would be but for the operation of any provision relating to earnings under the legislation of that country, in receipt of a pension or allowance as a widow;

that person shall, for the purposes of this paragraph, be regarded as having been in the country of record throughout that period.

ARTICLE 4

Payment of Contributions

(1) 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 Act of one country and a contribution as a self-employed or non-employed person under the Act of the other country; or

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

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

(2) Where a person—

(*a*) 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; or

(*b*) who is established in the Government service of one country, is employed in that service in the other country;

contributions shall be payable in either case in respect of his employment under the system of the former country and not under the system of the latter country:

Provided that a person shall cease, unless the competent authorities otherwise agree in any particular case, to be treated as being within the scope of sub-paragraph (*a*) of this paragraph if his employment in the latter country has lasted for as long as twelve months; and a person who, having been established in the Government service of the United Kingdom, has been paying contributions in respect of his employment under the system of Jersey immediately before this Agreement comes into operation shall be entitled to choose that contributions shall continue to be payable under the system of Jersey so long as he is employed in Jersey in the Government service of the United Kingdom.

(3) Subject to the provisions of paragraphs (1) and (2) of this Article, a person who has paid a contribution as an insured person for any week under the system 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 system of the other country.

(4) Where an employer has paid a contribution in respect of an employed person for any week under the system 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 system of the other country:

Provided that, where a person is employed in Jersey in any week for which he receives holiday pay from an employer in the United Kingdom, his employer in Jersey shall be liable to pay an employer's contribution under the system of Jersey.

ARTICLE 5

Matters taken into account for contributions, exceptions and credits

For the purpose of determining whether a person who is in one country is liable or entitled to pay a contribution for any week under the Act of that country or is excepted from liability so to pay a contribution or is entitled to have a contribution so credited to him, any act, omission or event, which would have effect for the purpose of determining whether he was liable or entitled to pay a contribution for that week under the Act of the other country or was excepted from liability so to pay a contribution or was entitled to have a contribution so credited to him, shall be treated as if it were respectively such an act, omission or event in relation to the Act of the former country, and, in particular, insurance, employment and contributions paid (including contributions credited or treated as paid) in the latter country shall be treated as if they had been, respectively, insurance, employment and contributions paid (including contributions credited or treated as paid) in the former country.

ARTICLE 6

Mariners and Airmen

(1) A person who is domiciled or has a place of residence in one country shall, for the purpose of those provisions of the system of the other country which relate to mariners and airmen, be treated as if he were domiciled or had a place of residence in that other country.

(2) Where a person is ordinarily resident in either country and either—

(*a*) he is employed by an employer having a place of business in that country on board a ship or vessel or aircraft engaged in regular trade between the two countries; or

(*b*) he is employed by an employer having a place of business in one country on board a ship or vessel whose port of registry is in the other country or of which the owner (or managing owner if there is more than one owner) resides or has his principal place of business in the other country;

then if, by virtue of those provisions of the systems of the two countries which relate to mariners or airmen, as the case may be, and, apart from this paragraph, that person would be insured in respect of that employment under the system of one of the two countries or under the systems of both countries, and his employment would be treated as an employed contributor's employment thereunder, he shall be insured in respect of that employment under the system of the country in which he is ordinarily resident, and his employment shall be treated as an employed contributor's employment under that system and he shall be excepted from insurance in respect of that employment under the system of the other country.

ARTICLE 7

Sickness Benefit

(1) Subject to the provisions of the following paragraphs of this Article, any claim to sickness benefit shall be determined under the Act of the country in which the insured person is on the day for which he makes the claim, or, if he is in neither country on that day, under the Act of the country of record:

Provided that the rate at which sickness benefit shall be payable to the insured person (subject to any overlapping benefits provisions) shall not exceed the rate at which it would have been payable to him (apart from any overlapping benefits provisions) under the Act of the other country if he had remained in that country and had fully satisfied the contribution conditions of that Act, unless—

(i) he has paid at least 13 contributions as an employed or self-employed person under the Act of the former country for weeks ending since he last entered that country; or

(ii) he has paid at least 156 contributions as an employed or self-employed person under the Act of the former country and has paid or had credited to him at least 26 contributions as an employed or self-employed person under that Act for the relevant contribution year; or

(iii) he has paid or had credited to him at least 26 contributions as an employed or self-employed person under the Act of the former country for the last contribution year which ended before he last entered that country, other than any contributions which were credited to him for weeks before he became insured under the Act of that country; or

(iv) the first day for which he is claiming sickness benefit is separated by not more than 13 weeks from the last day for which he was entitled to sickness benefit at any such higher rate under the Act of the former country.

(2) For the purpose of applying sub-paragraphs (i) and (iii) of the proviso to paragraph (1) of this Article any temporary absence of not more than 28 days from either country shall be disregarded.

(3) Where a claim to sickness benefit is determined under the Act of one country, in accordance with the provisions of paragraph (1) of this Article, any benefit which becomes payable on that claim shall be paid by the competent authority of that country, but if that country is not the country of record, its competent authority shall be reimbursed by the competent authority of the country of record either the amount of benefit so paid or the amount of benefit which would, but for any disqualification for the receipt of benefit by reason of absence from that country, have been paid under the Act of the country of record, whichever is the less.

(4) Where an insured person claims sickness benefit for a period during which he is in one country, his claim shall be determined without regard to the provisions of this Agreement under the Act of that country or under the Act of the other country, if the rate of benefit so determined is greater than the rate of benefit which he would have received in accordance with those provisions.

(5) Where a person is employed in one country and contributions are payable in respect of that employment under the system of the other country, in accordance with the provisions of paragraph (2) of Article 4, he shall be treated for the purpose of any claim to sickness benefit as if he were in the latter country.

(6) Where an insured person after claiming sickness benefit in Jersey under the Jersey Act moves to the United Kingdom and the provisions of paragraphs (4) and (5) of this Article do not apply to his claim to sickness benefit for the period during which he is in the United Kingdom, his claim for that period or, if that period lasts for longer than 28 days, his claim for the first 28 days of that period may, at the discretion of the competent authority of Jersey, be determined under the Jersey Act if that authority is satisfied that he could not, in accordance with the provisions of paragraphs (1) and (2) of this Article, qualify for sickness benefit at a higher rate under the United Kingdom Act.

(7) Where, in accordance with the provisions of any of the paragraphs (1), (5) and (6) of this Article, an insured person claims sickness benefit under the Act of one country, any contribution paid or credited under the Act of the other country shall be treated, except for the purpose of the proviso to paragraph (1), as if it were respectively a contribution paid or credited under the Act of the former country:

Provided that not more than one contribution, whether paid or credited, shall be taken into account for any week.

ARTICLE 8

Maternity Benefit

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

(2) Where a woman who is confined in one country would have been entitled to a home confinement grant under the Act of that country if she had claimed a maternity grant under that Act and her claim had been allowed, she shall be treated, for the purpose of any claim to a home confinement grant under the Act of the other country, as if she had been confined in the latter country:

Provided that, where a home confinement grant is payable under the Act of one country by virtue of this paragraph, its amount shall not exceed the amount of a home confinement grant under the Act of the other country.

(3) Where a woman is confined in one country and (apart from the provisions of this paragraph) no maternity grant is payable under the Act of either country, then, subject to the provisions of paragraph (4) of this Article, in determining whether she or her husband satisfies the relevant contribution conditions for a maternity grant under the Act of the country where she is confined, any contribution paid or credited under the Act of the other country shall be treated as if it had been, respectively, paid or credited under the Act of the former country:

Provided that, where a maternity grant or home confinement grant is payable under the Act of one country by virtue of this paragraph, its amount shall not exceed the amount of, respectively, a maternity grant or home confinement grant under the Act of the other country.

(4) Where a woman is confined in one country at a time when contributions are payable in respect of her employment or in respect of her husband's employment under the system of the other country, in accordance with the provisions of paragraph (2) of Article 4, the provisions of paragraph (3) of this Article shall apply to her as if she were confined in the latter country.

(5) Where, but for the provisions of this paragraph, maternity grants would have been payable to a woman under the Acts of both countries for the same confinement, she shall not be entitled to receive maternity grants under both Acts but shall be entitled to choose under which Act she will receive a maternity grant.

ARTICLE 9

Retirement Pensions

(1) Subject to the provisions of Article 11, where a person claims retirement pensions by virtue of his insurance under the Acts of the two countries, his claims shall be determined in accordance with the provisions of the succeeding paragraphs of this Article.

(2) The determining authority of each country shall determine whether he satisfies the conditions for receiving a retirement pension under the Act of that country, and, for this purpose, shall treat any contribution which he has paid or had credited to him under the Act of the other country as if it were respectively a contribution which he had paid or had had credited to him under the Act of the former country.

(3) Where the right to a retirement pension under the Act of one country is established in accordance with the provisions of paragraph (2) of this Article, the competent authority of that country shall calculate—

(*a*) the pension which would have been payable to the claimant under that Act if he had paid no contributions after reaching pensionable age and every other contribution which he had paid or had had credited to him under the Act of the other country were respectively a contribution which he had paid or had had credited to him under the Act of the former country;

(*b*) that part of such pension 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 Act of the former country bears to the total of all the contributions which he has paid or had credited to him under the Acts of the two countries, contributions which are not taken into account for the purpose of the yearly average being ignored in both cases;

(*c*) the amount by which his pension would have been increased under the Act of the former country if all the contributions which he has paid as an employed or self-employed person after reaching pensionable age had been paid under that Act;

(*d*) that part of such amount 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 Act of the former country after reaching pensionable age or is treated as having so paid bears to the total number of contributions which he has paid as an employed or self-employed person under the Acts of both countries after reaching pensionable age or is treated as having so paid.

The sum of the two parts thus calculated in sub-paragraphs (*b*) and (*d*) of this paragraph shall, subject to the provisions of paragraph (5) of this Article, be the rate of retirement pension payable to the claimant by the competent authority concerned.

(4) For the purpose of applying the provisions of paragraphs (1), (2) and (3) of this Article—

(*a*) no provision of the Act of either country which concerns overlapping benefits or the reduction of the rate of benefit on account of earnings shall be applied;

(*b*) any contributions which the claimant has paid or had credited to him under the Jersey Act shall be disregarded in so far as they raise the total number of his contributions for any contribution year above the total number of weeks in that year;

(*c*) if the number of contributions paid or credited under the Act of one country which are taken into account for the purpose of sub-paragraph (*a*) or (*c*) of paragraph (3) of this Article is less than one-twentieth of the total number of contributions paid or credited under the Acts of both countries which are taken into account for the purpose of that sub-paragraph, those contributions shall be treated for the purpose of that sub-paragraph as if they had been paid or credited under the Act of the other country;

(*d*) where 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, references to contributions paid by her or credited to her shall be deemed to include contributions paid by him or credited to him;

(*e*) if the insured person entered insurance under the United Kingdom Act before the 10th September, 1951, the yearly average of contributions paid by him or credited to him shall be calculated for the purposes of the Jersey Act over the period applicable under the United Kingdom Act;

(*f*) in determining whether the claimant satisfies the conditions for receiving a retirement pension under the Act of one country, and in calculating the pension which would have been payable to him under that Act in accordance with the provisions of sub-paragraph (*a*) of paragraph (3) of this Article, no account shall be taken, unless that country is Jersey and the provisions of sub-paragraph (*e*) of this paragraph apply to the claimant, of any contribution which has been credited to him under the Act of the other country for any week before he became insured under that Act;

(*g*) no account shall be taken of any graduated contribution paid under the United Kingdom Act and no account shall be taken of any graduated retirement benefit payable under that Act, but any such benefit shall be determined without regard to the said provisions of paragraph (3) of this Article and shall be added to the rate of any retirement pension payable to the claimant by the competent authority of the United Kingdom in accordance with those provisions.

(5) Where any retirement pension is payable in accordance with the provisions of the preceding paragraphs of this Article under the Act of one country to a person who is resident in the other country or was resident in that other country before becoming resident outside both countries, that pension shall be paid to him by the competent authority of the latter country and, for the purpose of any provision of the Act of the latter country which concerns overlapping benefits or the reduction of the rate of benefit on account of earnings, shall be treated as if it were part of any retirement pension payable under the Act of the latter country, but the amount of that retirement pension which is paid by the competent authority of the latter country shall be reimbursed by the competent authority of the former country:

Provided that, for this purpose, a person who has been resident in one country shall not be treated as having become resident in the other country unless he has been in the latter country for a continuous period of six months.

(6) For the purpose of determining the rate of sickness benefit or unemployment benefit payable to a person who is over pensionable age, the rate of retirement pension (excluding any graduated benefit) which would have been payable to him if he had retired on attaining pensionable age and claimed a retirement pension shall be deemed to be the sum of the two retirement pensions

which would have become payable to him under the Acts of the two countries in accordance with the provisions of paragraphs (2) and (3) of this Article.

(7) If any person to whom the provisions of paragraphs (1), (2) and (3) of this Article are applicable was, immediately before the 10th September, 1951, over the age of fifty-five, in the case of a man, or fifty, in the case of a woman, then—

(*a*) the date of his attaining pensionable age and (where it is relevant) the date of his retiring from regular employment shall, for the purposes of both Acts, be ascertained under that one of the Acts which he chooses; and the yearly average of contributions paid by or credited to him shall be calculated for the purpose of both Acts over the period applicable under the Act so chosen;

(*b*) any such choice may be made by giving notice in writing to the competent authority of the country where he is (or last was) resident, and shall be irrevocable:

Provided that, if a retirement pension under the United Kingdom Act is payable to the person at the date of coming into operation of this Agreement, he shall be deemed to have chosen the United Kingdom Act;

(*c*) unless and until he makes (or is deemed to have made) such a choice, he shall be treated as if he had chosen the Act providing the later date of retirement in his case.

(8) In this Article, references to contributions paid shall not include references to any contribution of which that portion which is attributable to retirement pension has been refunded to an insured person because he was too old when he entered insurance to be able to pay 156 contributions before attaining pensionable age or too old to be able to satisfy the condition as to the yearly average of contributions for retirement pension.

(9) The provisions of paragraphs (2) and (3) of this Article shall not apply in any case where the sum of the two retirement pensions calculated in accordance with those provisions is less than the sum of the two retirement pensions which the insured person would be entitled to receive under the Acts of the two countries without regard to those provisions, contributions which he has paid or had credited to him under the Jersey Act being disregarded in so far as they raise the total number of his contributions for any contribution year above the total number of weeks in that year. In such a case, the insured person shall be entitled to receive the latter two retirement pensions in accordance with the provisions of paragraph (5) of this Article.

(10) Where a retirement pension is payable under the Act of one country to a person in the other country, the right to receive that pension shall be subject to the operation of any provision of that Act modifying the right to retirement pensions of persons who are not resident in the former country:

Provided that any retirement pension payable under the Act of one country to a person in the other country shall be paid at any time, if this is to his advantage, at the rate at which it would have been payable if the rates which are payable under the Jersey Act at that time had been payable under the Act of the former country at the time when he became entitled to his pension or at the time when he ceased to be resident in that country, whichever was the later.

ARTICLE 10

Widow's Benefit

(1) The provisions of Article 9 shall apply to widow's benefit, subject to such modifications as the differing nature of the benefit may require, and subject also to the modification that, where, by virtue of paragraph (5) of that Article, any widow's benefit under the United Kingdom Act is payable by the competent authority of Jersey, any provision of the United Kingdom Act, which, were the earnings rule under that Act applicable, would ensure that the rate of widow's benefit should not be reduced below a prescribed amount, shall extend to the operation, in relation to that benefit, of the earnings rule under the Jersey Act.

(2) Where the man by virtue of whose insurance widow's benefit is claimed neither had made nor had been deemed in accordance with the proviso to sub-paragraph (*b*) of paragraph (7) of Article 9 to have made any such election as is required for the purposes of that paragraph, the yearly average of contributions paid by or credited to him shall be calculated under the Acts of both countries over the period applicable under whichever of the two Acts is the more favourable to the widow.

ARTICLE 11

Retirement Pensions for Widows

The rate of retirement pension payable to a widow, whether by virtue of her own or of her late husband's insurance, shall be determined in accordance with the provisions of Article 9 subject to the following modifications:—

(*a*) for the purposes of applying the provisions of sub-paragraphs (*a*) and (*b*) of paragraph (3) of Article 9, the widow shall be treated as if, for each week for which for the purpose of her right to a retirement pension a contribution as a non-employed person would, but for this Article, have been credited to her under the Acts of both countries, a contribution had been credited to her under the Act of one country or the other and not under the Acts of both countries, and as if all the contributions so credited to her were apportioned under the Acts of the two countries in the same ratio as the contributions paid by, or credited to, her late husband, were paid or credited under those Acts, contributions which were not taken into account for the purpose of the yearly average being ignored:

Provided that any contribution which she has paid or which has been credited to her as an employed or self-employed person for any such week under the Act of one country shall be taken into account, if it is to her advantage, to the exclusion of any contribution which she has paid or which has been credited to her for that week under the Act of the other country, and the foregoing provisions of this sub-paragraph shall not apply to that week;

(*b*) the total sum payable by way of retirement pension (apart from any increase in respect of contributions paid after pensionable age) shall not exceed the higher of the rates calculated by the competent authorities of the two countries in accordance with sub-paragraph (*a*) of paragraph (3) of Article 9;

(*c*) a widow who would be entitled, if she retired from regular employment, to a retirement pension under the United Kingdom Act by virtue of her own insurance shall be treated, for the purpose of her right to a retirement pension under the Jersey Act and her liability to pay contributions under that Act, as if any right to a retirement pension under that Act by virtue of her husband's insurance were a right to a retirement pension, if she retired from regular employment, by virtue of her own insurance;

(*d*) where, by virtue of paragraph (5) of Article 9, any retirement pension under the United Kingdom Act is payable by the competent authority of Jersey, any provision of the United Kingdom Act, which, were the earnings rule under that Act applicable, would ensure that the rate of retirement pension should not be reduced below a prescribed amount, shall extend to the operation, in relation to such retirement pension, of the earnings rule under the Jersey Act.

ARTICLE 12

Guardian's Allowance

(1) For the purpose of any claim to a guardian's allowance for a child under the Act of one country, any parent of that child who was insured under the Act of the other country shall be treated as if he had been insured under the Act of the former country.

(2) For the purpose of any claim to a guardian's allowance under the Act of one country, the statutory adoption of a child in the other country shall be treated as if it were a statutory adoption in the former country.

(3) Where, but for this paragraph, guardian's allowances would be payable under the Acts of both countries for the same child, an allowance shall be paid only under the Act of the country in which the child is ordinarily resident.

ARTICLE 13

Death Grants

(1) If a death occurs in one of the two countries and the contribution conditions for a death grant for that death are fully satisfied under the Act of the other country, then, for the purpose of any claim to a death grant under the Act of the latter country, the death shall be treated as if it had occurred in the latter country.

(2) If a death occurs in one of the two countries and the contribution conditions for a death grant for that death are not fully satisfied under the Act of either country, then, for the purpose of any claim to a death grant under the Act of the country where the death occurred, any contribution paid or credited under the Act of the other country shall be treated as if it were respectively a contribution paid or credited under the Act of the former country:

Provided that any grant which is payable under the Act of the former country shall not be paid at a higher rate than the higher of the following two rates—

(i) the rate at which it would have been paid under that Act but for the provisions of this paragraph; and

(ii) the rate at which it would have been paid under the Act of the latter country if the death had occurred in that country and any contribution paid or credited under the Act of the former country had been respectively paid or credited under the Act of the latter country.

(3) Where, but for the provisions of this paragraph, death grants would have been payable under the Acts of both countries for the same death, only the greater of the two death grants shall be paid or, if they are equal in amount, only the death grant payable under the Act of the country—

(*a*) where the death occurred; or

(*b*) where the deceased was last resident before his death, if he died in neither country.

ARTICLE 14

Industrial Injuries and Accident Benefits

(1) A person in Jersey shall not be disqualified for receiving any benefit under the Industrial Injuries Act by reason of absence from the United Kingdom.

(2) A person in the United Kingdom shall not be disqualified for receiving any accident benefit under the Jersey Act by reason of absence from Jersey.

(3) For the purpose of any right to benefit in respect of an industrial accident happening or an industrial disease contracted during employment to which the provisions of paragraph (2) of Article 4 apply, the insured person shall be treated as if—

(*a*) he were in the country under whose system contributions were payable in respect of his employment;

(*b*) the accident had happened or the disease had been contracted in that country; and

(*c*) the employment were insurable under the system of that country and not under the system of the other country.

(4) 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 system contributions were expected to be payable in respect of the insured person's employment in the country to which he was going; and

(*b*) the insured person's absence from either country shall be disregarded in determining whether the employment is insurable under that system.

(5) Where paragraph (3) or (4) of Article 4 prevents the payment of contributions under the Jersey Act in respect of employment in Jersey, accident benefit shall be payable under that Act in respect of any accident happening in the course of that employment as if contributions were due and had been paid under that Act.

(6) The provisions of this Article relating to accident benefit under the Jersey Act shall extend also to—

(*a*) widow's benefit under that Act; and

(*b*) a retirement pension payable under that Act to a woman by virtue of her deceased husband's insurance;

if in either case the death of the beneficiary's husband has resulted from an accident.

(7) The provisions of Articles 10 and 11 shall not apply in a case where there is payable such widow's benefit or such a retirement pension as is referred to in the last preceding paragraph:

Provided that where those provisions would be more favourable to the beneficiary they shall be applied instead of the provisions of this Article.

ARTICLE 15

Dependants

(1) In any case where, under the system 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, such benefit or increase shall be paid if the dependant is in the other country.

(2) In any case where, under the system of one country, any benefit other than guardian's allowance, or increase of benefit, 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, such benefit or increase shall be paid if the child is in the other country.

(3) Where, under the system of one country, a person would be entitled to widow's benefit or benefit in respect of death due to an industrial injury or disease if a child were in that country or had been in that country 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 the other country or was in the other country at that time.

(4) For the purposes of this Article, a child in one country who, by reason of his having been removed from the control of his parents, would be excluded from any family under the system of that country shall be treated as if he were excluded from any family under the system of the other country.

ARTICLE 16

Overlapping Benefits

(1) Where a person is entitled in respect of the same period to—

(*a*) sickness benefit under the United Kingdom Act together with injury benefit or disablement benefit under the Jersey Act; or

(*b*) sickness benefit under the Jersey Act together with injury benefit or a disablement pension under the Industrial Injuries Act;

the amount payable for that period in respect of those benefits shall be adjusted so as to be the amount which, but for this provision, would be payable for that period in respect of one of those benefits (if they would be so payable at equal

rates) or that one of them which would be so payable for that period at the higher rate, and for this purpose dependency benefits shall be adjusted apart from personal benefits and separately in respect of each child or adult dependant.

(2) Subject to the provisions of the preceding paragraph and Articles 9, 10 and 11, in determining a person's right to benefit in respect of any period under the system of one country, the overlapping benefits provisions of that system shall apply—

(*a*) as if any benefit which is payable in respect of that period under the system of the other country were benefit of the description (if any) corresponding thereto under the system of the former country ; and

(*b*) as if, where the former country is the United Kingdom, any benefit under the Accident Insurance Laws were to be taken into account under the system of that country in like manner as it is to be taken into account under the system of Jersey.

(3) An order made under paragraph (1) of Article 34 of the Jersey Act shall not operate to adjust benefit payable under that Act to or in respect of any person, or the conditions for the receipt thereof, by reason of there being payable to or in respect of that person an allowance under the Family Allowances Act.

ARTICLE 17

Other Provisions concerning Benefit

(1) In ascertaining periods of interruption of employment under the United Kingdom Act, account shall be taken of days of incapacity for work under the Jersey Act.

(2) In determining whether a person has exhausted his right to, or has requalified for, sickness benefit under the Act of one country, account shall be taken of sickness benefit to which he has been entitled under the Act of the other country.

(3) Where a woman claims sickness benefit under the Jersey Act and she is entitled to a maternity grant under the United Kingdom Act or would be so entitled if she made the necessary claim, the provisions of the United Kingdom Act restricting the right to sickness benefit in the four weeks beginning with the date of confinement shall apply to her claim to sickness benefit under the Jersey Act as they would apply to such a claim under the United Kingdom Act.

(4) Any benefit under the system of one country which is recoverable by deduction from other benefit under that system shall be recoverable by deduction from benefit under the system of the other country as if the benefit to be recovered were benefit under the system of the latter country.

(5) Where a person has received any sum by way of benefit under the system 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 or in respect of the same event under the system of the other country, the sum so received shall be treated as having been paid on account of the benefit due under the system of the latter country.

(6) For the purpose of satisfying any special contribution test under the Act of either country applying to a married woman's right to sickness benefit, contributions under the Acts of both countries shall be taken into account.

ARTICLE 18

Claims, Questions and Notices

Any claim made, any notice given or any question raised under the Act of one country and having effect for the purpose of sickness benefit, widow's benefit, a retirement pension or a guardian's allowance may, if it appears that a person might thereby become entitled to any benefit under the Act of the other country, be treated as if it had been made, given or raised under the Act of the latter country.

ARTICLE 19

Miscellaneous Provisions

(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 thereto.

(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 system of the former country.

(3) The competent authorities shall make such financial adjustments between the United Kingdom Fund and the Jersey Fund as they may agree to be necessary for the purposes of this Agreement.

(4) The existing Agreement on Social Insurance, which was signed by the Minister of Pensions and National Insurance and the Greffier of the States of Jersey in 1954, 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 Acts of either country before the date of entry into force of this Agreement, whether by virtue of the existing Agreement or otherwise.

(5) This Agreement shall come into force on the 6th day of August, 1962, 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 Labour and National Insurance for Northern Ireland and the Lieutenant-Governor of the Isle of Man of the one part or the Social Security Committee of the other part at least six months before the expiration of any such yearly period.

Given under the Official Seal of the Minister of Pensions and National Insurance this 13th day of July nineteen hundred and sixty-two.

(L.S.) *John Boyd-Carpenter,*
Minister of Pensions and National Insurance.

Given under the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 2nd day of July nineteen hundred and sixty-two.

(L.S.) *Herbert V. Kirk,*
Minister of Labour and National Insurance.

Given under the hand of the Lieutenant-Governor of the Isle of Man this 9th day of July nineteen hundred and sixty-two.

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 19th day of June nineteen hundred and sixty-two and authorised by Act of States of Jersey dated the 14th day of June nineteen hundred and sixty-two.

F. de L. Bois,
Greffier of the States.

EXPLANATORY NOTE

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

This Order gives effect in England, Wales and Scotland to the Agreement (set out in the Schedule) made between the Minister of Pensions and National Insurance, the Ministry of Labour and National Insurance 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 Social Security Committee, with the consent of the States of Jersey, of the other part, in so far as it relates to matters for which provision is made by the National Insurance Acts 1946 to 1961 and the National Insurance (Industrial Injuries) Acts 1946 to 1961.