RECIPROCAL AGREEMENTS

1955 No. 420

The National Insurance and Industrial Injuries (Luxembourg) Order, 1955

Made - - - - 17*th March*, 1955
Coming into Operation 1*st April*, 1955

At the Court at Buckingham Palace, the 17th day of March, 1955

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Paris on the seventh day of November, nineteen hundred and forty-nine, a Convention between the Governments of the United Kingdom of Great Britain and Northern Ireland, Belgium, France, Luxembourg and the Netherlands to extend and co-ordinate social security schemes in their application to the nationals of the parties to the Brussels Treaty (which Convention, hereinafter called "the Multilateral Convention", is set out in the First Schedule hereto) was signed on behalf of those Governments:

And Whereas by Article 13 of the Multilateral Convention it was provided that the Convention should enter into force, between those signatories which had ratified it, two months after the day on which the third instrument of ratification had been deposited with the Secretary-General of the Brussels Treaty Permanent Commission and should enter into force for each of the other signatories on the first day of the month following that in which its instrument of ratification was deposited:

And Whereas the Multilateral Convention was ratified by the Governments of the United Kingdom of Great Britain and Northern Ireland, France and the Netherlands, and the third instrument of ratification was deposited on the 15th day of March, 1951, and accordingly the Multilateral Convention entered into force between those Governments on the 15th day of May, 1951:

And Whereas the Multilateral Convention was ratified by the Government of Luxembourg, and its instrument of ratification was deposited on the 12th day of January, 1952, and accordingly the Multilateral Convention entered into force for that Government on the 1st day of February, 1952:

And Whereas at London on the thirteenth day of October, nineteen hundred and fifty-three, a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Luxembourg on social security (which Convention, hereinafter called "the Bilateral Convention", is set out in the Second Schedule hereto) was signed on behalf of those Governments:

And Whereas by Article 44 of the Bilateral Convention it was provided that the Convention should enter into force on the first day of the second month following the month in which the instruments of ratification had been exchanged:

And Whereas the Bilateral Convention has been ratified by the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Luxembourg, and the instruments of ratification were exchanged on the 14th day of February, 1955, and accordingly the Bilateral Convention enters into force on the 1st day of April, 1955 :

And Whereas by section 64 of the National Insurance Act, 1946(**a**), and section 85 of the National Insurance (Industrial Injuries) Act, 1946(**b**), it is provided that Her Majesty may by Order in Council make provision for modifying or adapting those Acts in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in those sections :

Now, therefore, Her Majesty, in pursuance of the said section 64 of the National Insurance Act, 1946, and the said section 85 of the National Insurance (Industrial Injuries) Act, 1946, 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, commencement and interpretation

1.—(1) This Order may be cited as the National Insurance and Industrial Injuries (Luxembourg) Order, 1955, and shall come into operation on the 1st day of April, 1955.

(2) The Interpretation Act, 1889(**c**), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Modification of Acts

2. The provisions contained in the Multilateral Convention set out in the First Schedule hereto and the provisions contained in the Bilateral Convention set out in the Second Schedule hereto shall have full force and effect, so far as the same relate to England, Wales and Scotland and provide by way of agreement with the Government of Luxembourg for reciprocity in any matters specified in either subsection (1) of section 64 of the National Insurance Act, 1946, or subsection (1) of section 85 of the National Insurance (Industrial Injuries) Act, 1946, (which subsections relate to reciprocal agreements with other governments), and the National Insurance Acts, 1946 to 1954, and the National Insurance (Industrial Injuries) Acts, 1946 to 1954, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the said provisions.

W. G. Agnew.

FIRST SCHEDULE

CONVENTION BETWEEN THE GOVERNMENTS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, BELGIUM, FRANCE, LUXEMBOURG AND THE NETHERLANDS TO EXTEND AND CO-ORDINATE SOCIAL SECURITY SCHEMES IN THEIR APPLICATION TO THE NATIONALS OF THE PARTIES TO THE BRUSSELS TREATY

Paris, 7th November, 1949

The Governments of Belgium, France, Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland ;

Being resolved, in accordance with the purposes of the Brussels Treaty signed on 17th March, 1948(**d**), to extend their co-operation in the social field ;

(**a**) 9 & 10 Geo. 6. c. 67.
(**b**) 9 & 10 Geo. 6. c. 62.
(**c**) 52 & 53 Vict. c. 63.
(**d**) "Treaty Series No. 1 (1949)," Cmd. 7599.

Reaffirming the principle of equal treatment for the nationals of each of them in the application of social security legislation and considering the importance of allowing the nationals of each of the Contracting Parties to retain the benefits of such legislation in whichever of the territories of the Contracting Parties such nationals are or become resident ; and

Desiring to conclude a Convention to this end ;

Have agreed as follows:—

ARTICLE 1

(*a*) Subject to the provisions of the present Convention, there shall be applied to the nationals of any of the Contracting Parties, who come within the scope of the social security legislation of those Parties, the provisions of each of the bilateral social security agreements concluded or to be concluded between any of the Contracting Parties, including any subsidiary agreements made in accordance wth the provisions of any such agreement (hereinafter referred to as " the bilateral agreements ").

(*b*) For the purposes of the present Convention, " nationals," " territories," " social security legislation " and " competent authorities " shall mean the nationals, territories, social security legislation and competent authorities of the Contracting Parties within the meaning of the applicable bilateral agreement or agreements which are or may be in force.

ARTICLE 2

(*a*) In any case in which a bilateral agreement provides for the aggregation of insurance periods, insurance periods completed under the social security legislation of three or more of the Contracting Parties, including any periods recognised under the said legislation as equivalent to insurance periods, shall, provided that they do not overlap, be aggregated for the purposes both of the determination of the right to benefit and of the maintenance or recovery of that right.

(*b*) If the social security legislation of any of the Contracting Parties provides that the grant of certain benefits shall be conditional on the insurance periods having been completed in an occupation subject to a special insurance scheme, only insurance periods completed under a corresponding scheme or schemes of one or more of the other Contracting Parties shall be aggregated in accordance with the provisions of paragraph (*a*) of this Article, for entitlement to such benefits. Nevertheless, if in the territory of any of the Contracting Parties the occupation in question is not subject to a special scheme, insurance periods completed in that occupation under any of the social security legislation mentioned in paragraph (*a*) of this Article shall be aggregated.

(*c*) In any case in which the insurance periods to be aggregated in order to establish a right to benefit are determined according to different rules under the applicable bilateral agreements, the insurance period to be taken into consideration under the social security legislation of each Contracting Party shall be determined in accordance with the provisions, most favourable to the national concerned, contained in any of the bilateral agreements concluded by that Contracting Party and applicable in that particular case.

ARTICLE 3

If the application of the present Convention or of any of the bilateral agreements should confer on a national the right to maternity benefit under the social security legislation of two of the Contracting Parties, the right of that national shall be governed by the legislation in force in the territory in which the birth takes place, full account being taken of insurance periods completed under the social security legislation of any of the Contracting Parties.

ARTICLE 4

(*a*) The benefits which can be claimed by a national for old age or death under the social security legislation of any of the Contracting Parties shall, in principle, be determined on the basis of the total of the benefits to which he would be entitled if the aggregate of all the periods of insurance reckoned in

accordance with the provisions of Article 2 had been completed in accordance with the social security legislation of each Contracting Party under which that national had been insured.

(*b*) Each Contracting Party shall decide in accordance with its own social security legislation, whether that national, taking into account all his periods of insurance irrespective of the territory in which those periods have been completed, satisfies the conditions laid down in that legislation necessary to give him a right to the benefits provided thereunder.

(*c*) Each Contracting Party shall calculate the amount of the cash benefit to which that national would have been entitled if all his periods of insurance had been completed exclusively under its own social security legislation, and shall determine the benefit actually due to him from it by reducing that amount in proportion to the length of the period in fact completed under its own social security legislation.

(*d*) If that national, taking into account all his periods of insurance referred to in Article 2, does not simultaneously satisfy the conditions laid down by the social security legislation of all the Contracting Parties concerned, his right to the benefits under the social security legislation of each such Contracting Party shall accrue as soon as he satisfies the conditions laid down by the social security legislation of that Contracting Party.

(*e*) For the purposes of this Article, the expression " benefits which can be claimed for death " shall mean the pensions, allowances or grants awarded to survivors on a basis comparable to that governing old age insurance under the social security legislation of each Contracting Party, but shall not include benefits which are granted irrespective of the duration of insurance or the number of contributions paid.

ARTICLE 5

(*a*) A national may, at the time when his right to any benefit mentioned in Article 4 becomes established, choose not to take advantage of the provisions of Article 2 of the present Convention. In that case the benefits to which he is entitled under the social security legislation of any one of the Contracting Parties shall be paid either (i) separately by the competent authority without reference to the periods of insurance, or periods regarded as their equivalent, completed in accordance with the legislation of one or more of the other Contracting Parties, or (ii) under the terms of the applicable bilateral agreement or agreements.

(*b*) That national shall be entitled to make a fresh choice between taking advantage of the provisions of Article 2 and of those of the present Article when it becomes in his interest to do so either (i) as the result of an amendment of the social security legislation of one of the Contracting Parties or of the transfer of his place of residence from the territory of one Contracting Party to that of another, or (ii) in the case referred to in paragraph (*d*) of Article 4, at the time when a new benefit in his favour becomes established under any social security legislation applicable to him.

ARTICLE 6

If in accordance with the social security legislation of one of the Contracting Parties, the payment of any benefit to a national is based on the average earnings over the whole of the period of insurance or over a part of it, the earnings to be taken into account in calculating the benefit payable by that Contracting Party shall be determined on the basis of the established earnings of that national during the period of insurance completed in accordance with its social security legislation.

ARTICLE 7

If a national has been subject to the social security legislation of two or more of the Contracting Parties, and if the bilateral agreements between them do not provide for the insurance institutions of any one of them to be solely responsible for the cost of invalidity pensions, the invalidity pension, or fraction

of pension, due to that national from the institutions of each of those Contracting Parties shall be determined in accordance with the provisions of Articles 4, 5 and 6 as though invalidity pensions were benefits within the meaning of those Articles.

ARTICLE 8

Any acquired right which, by virtue of a bilateral agreement, would be maintained for a national to whom that agreement applies so long as he resides in the territory of either of the Contracting Parties party to that agreement, shall be maintained for any national to whom the present Convention applies so long as he resides in the territory of any one of the Contracting Parties.

ARTICLE 9

(*a*) If any bilateral agreement is terminated, the present Convention shall cease to apply to the nationals of one Contracting Party who is a party to that agreement in respect of the bilateral agreements in force between the other party to that agreement and any other Contracting Party.

(*b*) In a case of this kind, the provisions of the present Convention shall remain applicable to acquired rights to the extent to which the maintenance of such rights is secured by the provisions of the bilateral agreement which is terminated.

ARTICLE 10

(*a*) Subject to any special rules set out in any agreements, and applicable in particular to frontier workers and seasonal workers, the dependants of a national, who is an employed person or treated as such, if they are ordinarily resident in the territory of one of the Contracting Parties while that national is following his occupation in the territory of another Contracting Party, shall enjoy the benefits in kind of the social security legislation of the Party in whose territory they reside, and at the expense of that Party. In any such case, the insurance periods completed by such national in the territory in which he is following his occupation shall be treated as though they were insurance periods completed in the territory in which his dependants are resident.

(*b*) The provisions of this Article shall not apply if any such dependant for whom the benefits are claimed has not become ordinarily resident in the territory where the claim is made until a date subsequent to the accident or the onset of illness or the presumed date of the conception.

ARTICLE 11

The present Convention may with the consent of all the Contracting Parties be extended to nationals of any Government which shall have concluded bilateral agreements on social security with all the Contracting Parties.

ARTICLE 12

(*a*) Arrangements for the application of the present Convention will, if required, be made between the competent authorities of the Contracting Parties.

(*b*) Any disagreement between two or more of the Contracting Parties arising out of the interpretation or application of the present Convention shall be resolved by negotiation.

(*c*) If any such disagreement cannot be resolved by such negotiation within a period of three months from the commencement of the negotiation, the disagreement shall be submitted to arbitration by an arbitral body whose composition and procedure shall be determined by agreement between the Contracting Parties.

(*d*) The decision of the arbitral body shall be given in accordance with the fundamental principles and spirit of the present Convention and shall be accepted as final and binding.

ARTICLE 13

(*a*) The present Convention shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Secretary-General of the Brussels Treaty Permanent Commission.

(*b*) It shall enter into force between those signatories which have ratified it two months after the day on which the third instrument of ratification shall have been deposited and shall enter into force for each of the other signatories on the first day of the month following that in which its instrument of ratification is deposited.

(*c*) The present Convention shall continue in force subject to the right of each Contracting Party to withdraw by giving notice to the Secretary-General which shall take effect six months after its receipt by him.

(*d*) The Secretary-General will inform the other signatories to the present Convention of the deposit of each instrument of ratification and of each notice of withdrawal.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed the present Convention and have affixed thereto their seals.

Done at Paris, the 7th November, 1949, in French and English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Secretariat-General of the Brussels Treaty Permanent Commission and of which a certified copy shall be transmitted by the Secretary-General to each of the signatory Governments.

For the Government of Belgium:

P. VAN ZEELAND.

For the Government of the French Republic:

SCHUMAN.

For the Government of Luxembourg:

Jos. BECH.

For the Royal Netherlands Government:

D. U. STIKKER.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

ERNEST BEVIN.

SECOND SCHEDULE

CONVENTION ON SOCIAL SECURITY BETWEEN THE UNITED KINGDOM AND THE GRAND DUCHY OF LUXEMBOURG

London, October 13, 1953

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Grand Duchy of Luxembourg,

Being resolved to co-operate in the social field,

Affirming the principle that the nationals of one Contracting Party should receive under the socal security legislation of the other equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and of making arrangements enabling their nationals who go from the territory of one Party to the territory of the other either to keep the rights which they have acquired under the legislation of the former Party or to enjoy corresponding rights under the legislation of the latter,

Desirous further of making arrangements for insurance periods completed under the legislation of the two Parties to be added together for the purpose of determining the right to receive benefit,

Have agreed as follows:

Part I.—Definitions and Scope

ARTICLE 1

For the purpose of the present Convention—

(1) " territory " means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland and the Isle of Man, and, in relation to the Grand Duchy of Luxembourg, its national territory;

(2) " national " means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to Luxembourg, a person having Luxembourg nationality;

(3) " legislation " means, according to the context, the laws and regulations specified in Article 2 in force in any part of the territory of one (or the other) Contracting Party;

(4) " 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, and the Isle of Man Board of Social Services, as the case may require, and, in relation to the Grand Duchy of Luxembourg, the Minister responsible for the legislation specified in Article 2;

(5) " social security 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 Luxembourg, the appropriate administrative authority specified in the legislation of Luxembourg;

(6) " employed person " means a person who comes within the definition of an employed person (or a person who is treated as an employed person) in the legislation which is being applied; " employment " means employment as an employed person, and the words " employ " and " employer " refer to such employment;

(7) " dependant " means, in relation to the United Kingdom, a person who would be treated as such for the purpose of any claim to receive an additional allowance under the legislation of the United Kingdom, and, in relation to Luxembourg, a person who comes within the definition of a dependant in the legislation of Luxembourg;

(8) " insurance period " means, in relation to the United Kingdom, a period in respect of which contributions, appropriate to the benefit in question, have been paid under the legislation of the United Kingdom, and, in relation to Luxembourg, an insurance period as defined in the legislation of Luxembourg;

(9) " equivalent period " means, in relation to the United Kingdom, a period in respect of which contributions, appropriate to the benefit in question, have been credited under the legislation of the United Kingdom, and, in relation to Luxembourg, a period recognised under the legislation of Luxembourg as equivalent to an insurance period;

(10) the words " benefit " and " pension " include any increase in the benefit or pension and any additional allowances payable therewith;

(11) " sickness benefit " means, in relation to the United Kingdom, sickness benefit as defined in the legislation of the United Kingdom, other than invalidity pension, and, in relation to Luxembourg, sickness benefit as defined in the legislation of Luxembourg;

(12) " invalidity pension " means, in relation to the United Kingdom, sickness benefit as defined in the legislation of the United Kingdom which becomes payable to a person in respect of a period of interruption of employment as defined in that legislation after the lapse in that period of three hundred and

twelve days for each of which he has been entitled to receive either sickness benefit under the legislation of one (or the other) Party, or an invalidity pension under the legislation of Luxembourg;

" invalidity pension " means, in relation to Luxembourg, an invalidity pension as defined in the legislation of Luxembourg;

(13) " old age pension " means, in relation to the United Kingdom, an old age pension or retirement pension as defined in the legislation of the United Kingdom, and, in relation to Luxembourg, an old age pension as defined in the legislation of Luxembourg.

ARTICLE 2

(1) The provisions of the present Convention shall apply, in relation to the United Kingdom, to the National Insurance Act, 1946, the National Insurance Act (Northern Ireland), 1946, the National Insurance (Isle of Man) Act, 1948, the legislation in force before the 5th July, 1948, which was replaced by those Acts, the National Insurance (Industrial Injuries) Act, 1946, the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948; and, in relation to Luxembourg, to the laws and regulations concerning sickness and maternity insurance, old age, invalidity and death insurance, and insurance against industrial accidents and industrial diseases.

(2) Subject to the provisions of paragraphs (3) and (4) of this Article, the Convention shall also apply to any law or regulation which amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) The Convention shall not apply to laws or regulations which extend insurance to new classes of persons or relate to a new branch of social security, if either Contracting Party so decides and gives notice to the other to that effect within three months of the official communication of the said legislation in accordance with Article 38 of the Convention.

(4) The Convention shall apply to laws and regulations which amend the legislation specified in paragraph (1) of this Article for the purpose of giving effect to a reciprocal agreement on social security only if the Contracting Parties so decide.

Part II.—General Provisions

ARTICLE 3

A national of one Contracting Party shall be entitled to receive the benefits of the legislation of the other Party under the same conditions as if he were a national of the latter Party.

ARTICLE 4

(1) Subject to the provisions of paragraph (2) of this Article and of Articles 5 and 6, where a national of either Contracting Party is employed in the territory of one Party, the legislation of that Party shall apply to him, even if he is ordinarily resident in the territory of the other Party, and even if his employer or the principal place of business of the undertaking which employs him is in the latter territory.

(2)—(*a*) Where a national of either Party, who is ordinarily resident in the territory of one Party, and is in the service of an employer who is ordinarily resident in the territory of that Party or has a place of business there, is employed in the territory of the other Party, the legislation of the former Party shall apply to that person as if he were employed in the territory of the former Party, provided that his employment in the latter territory is not expected to last for a period of more than six months. If his employment in the latter territory should for unforeseen reasons continue after such period of six months, the legislation of the former Party shall continue to apply to him for any further period of not more than six months, provided that the competent authority of the latter Party agrees thereto before the end of the first period of six months.

(*b*) Where a national of either Party is employed by a transport undertaking on road or rail vehicles in the territory of one (or the other) Party, the legislation of the Party in whose territory the transport undertaking has its principal place of business shall apply to him as if he were employed in that territory and as if any conditions relating to nationality, residence or domicile were satisfied in his case.

(*c*) Where a national of either Party, ordinarily resident in the territory of one Party and employed on an aerodrome in the territory of the other Party, is paid remuneration in respect of that employment by an air transport undertaking which has its principal place of business in the territory of the former Party, the legislation of the former Party shall apply to that national as if he were employed in its territory, and the said air transport undertaking shall be treated as the employer for the purposes of such legislation.

ARTICLE 5

(1) For the purpose of this Article, "aircraft of one (or the other) Party" means, according to the context,

(*a*) an aircraft registered in the territory of the United Kingdom, or

(*b*) an aircraft registered in the territory of Luxembourg.

(2) Subject to the provisions of paragraph (3) of this Article, where a national of either Contracting Party, ordinarily resident in the territory of one Party, is employed on board any aircraft of the other Party, the legislation of the latter Party shall apply to him as if any conditions relating to nationality, residence or domicile were satisfied in his case.

(3) Where a national of either Party, ordinarily resident in the territory of one Party and employed on board any aircraft of the other Party, is paid remuneration in respect of that employment by some person or undertaking having a place of business in the territory of the former Party and not the owner of the aircraft, the legislation of the former Party shall, in respect of that employment, apply to that national as if the aircraft were an aircraft of the former Party, and the person or undertaking paying the said remuneration shall be treated as the employer for the purposes of such legislation.

ARTICLE 6

(1) The present Convention shall not apply to established members of the Foreign Service of either Contracting Party.

(2) Subject to the provisions of paragraph (1) of this Article,

(*a*) where a national of one Party is temporarily employed in its Government service in the territory of the other Party, the legislation of the former Party shall apply to him as if he were employed in its territory;

(*b*) where a national of either Party, to whom sub-paragraph (*a*) of this paragraph does not apply, is employed in a diplomatic or consular post of one Party in the territory of the other, or is employed there by a diplomatic or consular official of the former Party in his personal capacity, the legislation of the Party in whose territory that person is employed shall apply to him.

ARTICLE 7

Where a national of either Contracting Party is in the territory of one Party and the legislation of the other applies to him in accordance with the provisions of paragraph (2) of Article 4 or of paragraph (2) of Article 6, he shall, for the purpose of any right to receive cash benefits for sickness, maternity, industrial accident or disease under such legislation, be treated—

(*a*) in respect of sickness and maternity benefit as if he were resident in the territory of the latter Party, and

(*b*) in respect of benefit for an industrial accident occurring or an industrial disease contracted during such employment as if the accident had occurred or the disease had been contracted in the territory of the latter Party.

ARTICLE 8

The competent authorities of the two Contracting Parties may agree that the provisions of Articles 4, 5 and 6 shall not apply in particular cases.

ARTICLE 9

Where a national of either Contracting Party, who is ordinarily resident in the territory of one Party but is not compulsorily insured under its legislation, claims the right to be voluntarily insured under that legislation, any insurance period completed under the legislation of the other Party shall be treated for the purpose of such claim as if it had been completed under the legislation of the former Party.

Part III.—Special Provisions

SECTION 1.—BENEFITS IN RESPECT OF SICKNESS, MATERNITY AND DEATH

ARTICLE 10

A national of either Contracting Party who has completed an insurance period under the legislation of one Party shall be entitled, together with his dependants, to receive the benefits provided under the legislation of the other Party in respect of sickness, maternity and death, provided that—

(1) he has begun an insurance period under the legislation of the latter Party;
(2) he satisfies the conditions laid down by the legislation of the latter Party; and for this purpose any insurance period or equivalent period completed under the legislation of the former Party shall be treated, subject to the provisions of Article 26, as if it had been completed under the legislation of the latter Party;
(3) in the case of sickness benefit claimed in respect of the national himself, the illness has become apparent after the beginning of the insurance period following the date on which he last entered the territory of the latter Party;
(4) in the case of maternity, the benefit shall be provided under the legislation under which the woman or, if it is claimed by virtue of her husband's insurance, her husband is paying contributions at the time when the claim is made or was last paying contributions before that time.

ARTICLE 11

(1) Where a woman, being a national of either Party, is insured under the legislation of one Party or is the wife of a person so insured and is in, or is confined in, the territory of the other Party, she shall, for the purpose of any claim to receive maternity benefit under the legislation of the former Party, be treated as if she were in, or had been confined in, the territory of the former Party.

(2) For the purpose of applying this Article "maternity benefit" means, in relation to the United Kingdom, maternity benefit other than home confinement grant.

ARTICLE 12

(1) A national of either Contracting Party, who goes from the territory of one Party to the territory of the other for the specific purpose of being treated for a disease which was contracted, or a disablement which occurred, before he left the former territory, shall, while in the latter territory, remain entitled to receive sickness benefit from the social security authority of the former Party during such period as that authority may allow.

(2) This Article shall not apply to nationals of either Party who have qualified for sickness benefit solely by virtue of Article 10.

ARTICLE 13

(1) If a national of either Contracting Party dies in the territory of one Party, he shall, for the purpose of any claim to receive benefit under the legislation of the other Party, be treated as if he had died in the territory of the latter Party.

(2) Where a national of either Party, who is in the territory of one Party, claims benefit under the legislation of the other Party in respect of a death he shall be treated as if he were in the territory of the latter Party.

(3) Benefit shall not be payable under the legislation of both Parties in respect of the same death, unless the right to receive such benefit under the legislation of both Parties exists independently of the provisions of the present Convention.

(4) In cases where the preceding paragraph of this Article prevents a double payment, the following provisions shall apply:—

(*a*) if the death occurs in the territory of one Party, the right under the legislation of that Party shall be preserved and the right under the legislation of the other Party shall be extinguished;

(*b*) if the death does not occur in the territory of either Party, the right under the legislation under which the deceased last completed an insurance period before his death shall be preserved and the right under the other legislation shall be extinguished.

Section 2.—Old Age Pensions

Article 14

(1) Subject to the provisions of Article 16, where a national of either Contracting Party submits a claim to receive an old age pension by virtue of insurance periods and equivalent periods completed under the legislation of both Parties, his claim shall be determined in accordance with the provisions of the succeeding paragraphs of this Article.

(2) The appropriate social security authority of each Party shall determine, in accordance with its own national legislation, whether the national satisfies the conditions for receiving a pension under that legislation and for this purpose shall take into account all the insurance periods and equivalent periods completed by him under the legislation of the two Parties as if they had been completed under its own national legislation.

(3) Where the right to a pension is established in accordance with the provisions of paragraph (2) of this Article, the social security authority of each Party shall calculate—

(*a*) the pension which would have been due to the national under its own national legislation if all the insurance periods and equivalent periods completed by him under the legislation of both Parties, calculated in accordance with the provisions of Article 26, had been completed under its own national legislation, and

(*b*) that part of such pension which bears the same relation to the whole as the total of all the insurance periods and equivalent periods completed by the national under its own national legislation bears to the total of all the insurance periods and equivalent periods completed by him under the legislation of both Parties.

The part thus calculated shall be the pension actually due to the national from the social security authority concerned.

(4) Where the total of all the insurance periods and equivalent periods completed by a national under the legislation of one (or the other) Party is less than six months, no pension shall be paid under the legislation of that Party.

(5) For the purpose of applying this Article,

(*a*) an insurance period or equivalent period completed by a national shall be deemed to mean an insurance period or equivalent period completed by the husband of a national in those cases where the national concerned is a woman claiming an old age pension by virtue of her husband's insurance;

(*b*) effect shall be given to the provisions of Article 39.

ARTICLE 15

Where a national of either Contracting Party does not simultaneously satisfy the conditions laid down by the legislation of both Parties, his right to receive a pension under the legislation of each Party shall be established and extended as and when he satisfies the conditions laid down by the legislation of that Party, account being taken of the provisions of Article 14.

ARTICLE 16

(1) A national of either Contracting Party may, at the time when his right to receive a pension is established, choose not to take advantage of the provisions of Article 14. In that case the old age pension which he is entitled to receive under the legislation of each Party shall be paid to him separately by its social security authority without regard to insurance periods completed by him under the legislation of the other Party.

(2) Such national shall be entitled to make a fresh choice between taking advantage of the provisions of Article 14 and those of this Article, if it is in his interest to do so, either when the legislation of either Party is amended, or when he goes from the territory of one Party to that of the other, or when, in accordance with the provisions of Article 15 or otherwise, his right to a pension is established or extended under the legislation of either Party.

ARTICLE 17

(1) Where, under the legislation of one Contracting Party, a national of either Party would be entitled to receive an old age pension if he were resident in the territory of that Party, he shall be entitled to receive that pension while he is resident in the territory of the other Party.

(2) For the purpose of applying this Article, effect shall be given to the provisions of Article 39.

ARTICLE 18

Where a special scheme established under the legislation of one Contracting Party provides that old age pensions shall be dependent on the completion of insurance periods in an occupation to which the special scheme applies, the only periods completed under the legislation of the other Party which shall be treated as insurance periods for the purpose of determining the right to receive an old age pension under the said special scheme shall be those completed under a corresponding special scheme of the latter Party. If, under the legislation of the latter Party, there is no special scheme for the occupation in question, any insurance perod or equivalent period, completed under the special scheme of the former Party, shall nevetheless be treated as an insurance period or equivalent period under the general insurance scheme of the latter Party for the purpose of determining the right to receive an old age pension under that scheme.

SECTION 3.—INVALIDITY PENSIONS

ARTICLE 19

The provisions relating to old age pensions contained in paragraphs (2), (3) and (4) of Article 14 shall apply to invalidity pensions, subject to such modifications as the differing nature of the pensions shall require.

ARTICLE 20

Where a national of either Contracting Party is in the territory of one Party and, in accordance with the provisions of Article 19, is entitled to receive an invalidity pension under the legislation of that Party and would be entitled to receive also an invalidity pension under the legislation of the other Party if he were in its territory, he shall be entitled to receive the latter pension as well as the former; and in addition the insurance authority of the former Party shall pay him the amount, if any, by which the total of these two pensions is less than the pension which he would be entitled to receive under the legislation of the former Party if the provisions of Article 19 were not applied in his case.

ARTICLE 21

(1) Where a national of either Contracting Party is in the territory of one Party and is not entitled, in accordance with the provisions of Articles 19 and 20, to receive invalidity pensions under the legislation of both Parties, the insurance authority of the Party in whose territory he is shall, subject to the provisions of paragraph (2) of this Article, pay him the invalidity pension which he would be entitled to receive under its national legislation if the provisions of Article 19 were not applied in his case. If he goes to the territory of the other Party, the insurance authority of the former Party shall continue to pay him the said invalidity pension provided that his illness was declared to be chronic before he left the territory of the former Party.

(2) Where an invalidity pension is being paid under the legislation of one Party, in accordance with the provisions of paragraph (1) of this Article, it shall be replaced by pensions payable in accordance with the provisions of Articles 19 and 20 as soon as the national concerned satisfies the conditions of the legislation of the other Party, account being taken of those provisions.

SECTION 4.—BENEFITS IN RESPECT OF WIDOWHOOD AND ORPHANHOOD

ARTICLE 22

The provisions relating to old age pensions contained in Articles 14, 15, 16 and 17 shall apply to benefit in respect of widowhood, and the provisions relating to invalidity pensions contained in Articles 19 and 20 shall apply to benefit in respect of orphanhood, subject to such modifications in each case as the differing nature of the benefit shall require.

SECTION 5.—INDUSTRIAL ACCIDENTS AND DISEASES

ARTICLE 23

Where, under the legislation of one Contracting Party relating to industrial accidents and diseases, a national of either Party would be entitled to receive a benefit if he were resident in the territory of that Party, he shall be entitled to receive that benefit while he is resident in the territory of the other Party.

ARTICLE 24

In assessing, for the purpose of the legislation of one Contracting Party, the degree of disablement due to an industrial accident, any previous industrial accident for which benefit is payable under the legislation of the other Party shall be treated as if it were an industrial accident covered by the legislation of the former Party.

ARTICLE 25

Where a national of either Contracting Party, having received a benefit for an industrial disease under the legislation of one Party, submits a claim under the legislation of the other Party to receive a benefit for an industrial disease of the same kind, the social security authority of the latter Party shall be responsible for obtaining evidence as to the benefit granted under the legislation of the former Party in respect of that disease, and shall treat that benefit as if it had been granted under its own legislation.

SECTION 6.—GENERAL PROVISIONS

ARTICLE 26

(1) In applying the provisions contained in Articles 10 and 14 relating to the adding together of insurance periods and equivalent periods for the purpose of establishing the right to receive benefit, the social security authority of each Contracting Party, having regard to the relevant provisions of its own national legislation, shall add to any insurance periods and equivalent periods completed under that legislation any insurance periods and equivalent periods completed under the legislation of the other Party, except to the extent that the latter coincide with the former.

(2) The provisions of paragraph (1) of this Article shall be applied in accordance with the following rules:

(*a*) where a period of compulsory insurance completed under the legislation of one Party coincides with a period of voluntary insurance completed under

the legislation of the other, only the period of compulsory insurance shall be taken into account;

(*b*) where an insurance period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of the other Party, only the insurance period shall be taken into account;

(*c*) where an equivalent period completed under the legislation of one Party coincides with an equivalent period completed under the legislation of the other Party, account shall be taken only of the equivalent period completed under the legislation of the Party in whose territory the national concerned was last employed before the beginning of such period or, if he was not so employed, only of the equivalent period completed under the legislation of the Party in whose territory he is first employed after the end of such period.

ARTICLE 27

Where, under the legislation of either Contracting Party, the amount of any cash benefit is related to the average wage earned during insurance periods, the average wage to be taken into account for the calculation of the benefit due to be paid under that legislation shall be calculated on the basis of the wages earned during the insurance periods actually completed under that legislation.

ARTICLE 28

Where, under the provisions of this Part of the present Convention, any cash benefit is payable by the social security authority of one Contracting Party to a person who is resident in the territory of the other Party, the payment may, at the request of that authority, be made by the social security authority of the latter Party as agent for the authority of the former Party.

ARTICLE 29

Where payment of any benefit is made by a social security authority of Luxembourg as agent for a social security authority of the United Kingdom in accordance with the provisions of Article 28,

(*a*) payment shall be made, except in the case of a lump sum, in arrear at monthly intervals, and

(*b*) any question about earnings shall be determined in accordance with the legal procedure of the legislation of Luxembourg.

ARTICLE 30

In all cases where, under the legislation of one Contracting Party, any cash benefit would have been paid in respect of a dependant if the dependant had been in the territory of that Party, such benefit shall be paid if the dependant is in the territory of the other Party.

ARTICLE 31

Subject to the provisions of Articles 16 and 32, any person claiming a benefit under the legislation of either Contracting Party may choose to have his claim settled without regard to the provisions of the present Convention.

ARTICLE 32

(1) Where a national of either Contracting Party, who is entitled to receive a cash benefit under the legislation of one Party, claims a cash benefit under the legislation of the other Party, any provision of the legislation of the latter Party which restricts the right to receive one benefit by reason of the receipt of another benefit shall apply to that national as if the benefit payable under the legislation of the former Party were a corresponding benefit payable under the legislation of the latter Party.

(2) The provisions of paragraph (1) of this Article shall not apply to two benefits of the same kind paid in accordance with the provisions of Article 13, Section 2, Section 3 or Section 4 of this Part of the present Convention.

Part IV.—Miscellaneous Provisions

ARTICLE 33

The competent authorities—

(1) shall make such administrative arrangements as may be required for the application of the present Convention ;

(2) shall communicate to each other information regarding any measure taken by them for the application of the Convention ;

(3) shall communicate to each other, as soon as possible, information regarding any changes made under their national legislation which affect the application of the Convention.

ARTICLE 34

(1) The competent authorities and the social security authorities of the two Contracting Parties shall furnish assistance to one another with regard to any matter relating to the application of the present Convention as if the matter were one affecting the application of their own national legislation.

(2) The competent authorities shall, in particular, agree upon the measures to be adopted for the medical and administrative supervision of persons entitled to benefit by virtue of the present Convention.

ARTICLE 35

(1) Any exemption from, or reduction of, legal dues, charges and fees, provided for in the legislation of one Contracting Party in connection with the issue of any certificate or document required to be produced for the purposes of that legislation, shall be extended to certificates and documents required to be produced for the purposes of the legislation of the other Party.

(2) Where any certificate or other document has to be produced to the competent authority or social security authority of one (or the other) Party for the purpose of applying the present Convention, that authority shall not require the certificate or other document to be legalised or authenticated.

ARTICLE 36

Any claim, notice or appeal which should, for the purposes of the legislation of one Contracting Party, have been presented within a prescribed period to the social security authority of that Party, but which is in fact presented within the same period to the social security authority of the other Party, shall be treated as if it had been presented to the social security authority of the former Party. In such cases, the social security authority of the latter Party shall, as soon as possible, transmit the claim, notice or appeal to the social security authority of the former Party.

ARTICLE 37

The social security authorities of the Contracting Parties may, for the purpose of applying the present Convention, correspond directly with one another, or with any person entitled to receive any benefit by virtue of the present Convention, or with his legal representative.

ARTICLE 38

The amount of any benefit due in accordance with the provisions of the present Convention shall be calculated in the currency of the Contracting Party whose social security authority is responsible for such benefit.

ARTICLE 39

(1) In any case where a national of either Contracting Party left the territory of the United Kingdom before the 5th July, 1948, and had previously received one or more payments of old age pension under the legislation of the United Kingdom, he shall be entitled, if he is in the territory of Luxembourg, to receive such a pension at the rate prescribed in paragraph (3) of this Article appropriate to him, and on the same conditions as if he were in the former territory ; and the wife of that national, if she is in the territory of Luxembourg, shall be entitled to receive such a pension at the rate prescribed in the said paragraph (3) appropriate to her, and on the same conditions as if she were in the former territory.

(2) In any case where a national of either Party left the territory of the United Kingdom before the 5th July, 1948, and would have been able, but for his absence from that territory, to receive, before that date, payments of old age pension under the said legislation, he shall be entitled to receive such a pension on the conditions set out in paragraph (1) of this Article.

(3) The rate of pension payable under the provisions of paragraphs (1) and (2) of this Article shall be determined as follows:—

(*a*) if the pension was paid before the national left the territory of the United Kingdom, the rate shall be the rate applicable in that territory at the time when the pension was last paid;

(*b*) if the pension was not paid before the national left the said territory by reason of delay in making, or failure to make, a claim the rate shall be the rate of pension which the national would have been entitled to receive immediately before leaving the said territory, if a claim had been made at that time;

(*c*) if the pension was not paid before the national left the said territory because the national (or her husband, as the case may be) had not then attained pensionable age, the rate shall be the rate at which the pension would have been paid at that age had the national remained in the said territory until the national (or her husband, as the case may be) attained that age and made a claim;

provided that, in any case where the person left the said territory on or after the 30th September, 1946, the rate shall be the rate at which the pension would be payable had he remained in the said territory.

(4) If at any time the rates of old age pensions awarded under the legislation of the United Kingdom before the 1st October, 1946, and payable to pensioners resident outside the United Kingdom are generally increased, similar increases will be applied from the same date to such pensioners resident in the territory of Luxembourg.

(5) Where an employed person, or a person treated as an employed person, left the territory of Luxembourg before the 1st July, 1938, any periods of insurance under the legislation of Luxembourg completed by him before that date shall not be taken into account for the purposes of Sections 2, 3 and 4 of Part III of the present Convention unless—

(*a*) he completed six months of insurance under the legislation of Luxembourg after that date, and returned to the territory of Luxembourg before the 1st October, 1953; or

(*b*) his rights in relation to such periods have been maintained or restored in accordance with the provisions of the legislation of Luxembourg;

provided that this restriction shall not apply to insurance periods completed while the national was employed in the mines.

ARTICLE 40

(1) No provision of the present Convention shall confer any right to receive any payment of benefit for a period before the date of the entry into force of the Convention.

(2)—(*a*) Subject to the provisions of paragraph (1) of this Article, benefit, other than lump-sum payments, shall be payable in accordance with the provisions of the Convention in respect of events which happened before the date of its entry into force, and for this purpose—

(i) any benefit which has not been awarded because the person concerned has not made a claim or is absent from the territory of either Party shall be determined and paid;

(ii) any benefit which has been suspended because the person concerned is absent from the territory of either Party shall be paid;

(iii) any benefit which has been determined shall, where necessary, be determined afresh provided that its capital value has not been liquidated.

(*b*) Any benefit which is payable in accordance with the provisions of sub-paragraph (*a*) of this paragraph shall be paid or determined and paid, as the case may be, as from the date of the entry into force of the Convention, provided that the claim therefor is submitted within twelve months of that date.

(3) Any insurance period or equivalent period which a national of either Party has completed before the date of the entry into force of the Convention shall be taken into account for the purpose of determining the right to receive benefit in accordance with the provisions of the Convention.

ARTICLE 41

(1) The competent authorities of the Contracting Parties shall endeavour to resolve by negotiation any disagreement relating to the interpretation or application of the present Convention.

(2) If any such disagreement has not been resolved by negotiation within a period of three months, the disagreement shall be submitted to arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting Parties.

(3) In default of such agreement within a further period of three months, by an arbitrator chosen at the request of either Party by the President of the International Court of Justice.

(4) The decision of the arbitral body, or arbitrator, as the case may be, shall be made in accordance with the principles and spirit of the present Convention and shall be final and binding.

ARTICLE 42

The two Contracting Parties shall conclude, if necessary, one or more supplementary agreements based on the principles of the present Convention.

ARTICLE 43

In the event of the termination of the present Convention, any right acquired by a person in accordance with its provisions shall be maintained, and negotiations shall take place for the settlement of any rights then in course of acquisition by virtue of those provisions.

ARTICLE 44

The present Convention shall be ratified and the instruments of ratification shall be exchanged in Luxembourg as soon as possible. The Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged.

ARTICLE 45

The present Convention shall remain in force for a period of one year from the date of its entry into force. Thereafter it shall continue in force from year to year unless it is denounced in writing three months before the expiry of any such yearly period.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed the present Convention.

Done in duplicate at London this 13th day of October, 1953, in the English and French languages, both texts being equally authoritative.

OSBERT PEAKE.
N. BIEVER.

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 Convention (set out in the First Schedule) made between the Governments of the United Kingdom, Belgium, France, Luxembourg and the Netherlands, in so far as the provisions of that Convention provide for reciprocity with Luxembourg (which

has now ratified the Convention) in relation to the National Insurance Acts, 1946 to 1954, and the National Insurance (Industrial Injuries) Acts, 1946 to 1954, and also to the Convention (set out in the Second Schedule) made between the Governments of the United Kingdom and Luxembourg.

The Order modifies the National Insurance Acts, 1946 to 1954, and the National Insurance (Industrial Injuries) Acts, 1946 to 1954, in their application to persons affected by the said provisions of those Conventions.

1955 No. 874

The National Insurance and Industrial Injuries (Netherlands) Order, 1955

Made - - - - 21*st June*, 1955
Coming into Operation 21*st June*, 1955

At the Court at Buckingham Palace, the 21st day of June, 1955

Present,

The Queen's Most Excellent Majesty in Council

Whereas at The Hague on the eleventh day of August, nineteen hundred and fifty four a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands on social security (which Convention is set out in the Schedule hereto) was signed on behalf of those Governments:

And Whereas by Article 49 of the said Convention it was provided that the Convention should enter into force on the first day of the month following the month in which the instruments of ratification had been exchanged:

And Whereas the said Convention has been ratified by the Governments of the United Kingdom of Great Britain and Northern Ireland and of the Kingdom of the Netherlands, and the instruments of ratification were exchanged on the 23rd day of May, 1955, and accordingly the said Convention enters into force on the 1st June, 1955:

And Whereas by section 64 of the National Insurance Act, 1946(**a**), and section 85 of the National Insurance (Industrial Injuries) Act, 1946(**b**), it is provided that Her Majesty may by Order in Council make provision for modifying or adapting those Acts in their application to cases affected by agreements with other governments providing for reciprocity in the matters specified in those sections:

Now, therefore, Her Majesty, in pursuance of the said section 64 of the National Insurance Act, 1946, and the said section 85 of the National Insurance (Industrial Injuries) Act, 1946, and 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, commencement and interpretation

1.—(1) This Order may be cited as the National Insurance and Industrial Injuries (Netherlands) Order, 1955, and shall come into operation on the twenty-first day of June, 1955.

(2) The Interpretation Act, 1889(**c**), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(**a**) 9 & 10 Geo. 6. c. 67. (**b**) 9 & 10 Geo. 6. c. 62. (**c**) 52 & 53 Vict. c. 63.