1953 No. 884

The National Insurance and Industrial Injuries (Reciprocal Agreement with Italy) Order, 1953

Made - - - -	28*th May*, 1953
Coming into Operation	4*th June*, 1953

At the Court at Buckingham Palace, the 28th day of May, 1953

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Rome on the twenty-eighth day of November, nineteen hundred and fifty-one a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Italian Republic on social insurance was signed on behalf of those Governments ;

And Whereas by Article 39 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 the Italian Republic, and the instruments of ratification were exchanged on the 30th day of April, 1953, and accordingly the said Convention entered into force on the 1st day of May, 1953 ;

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 (Reciprocal Agreement with Italy) Order, 1953, and shall come into operation on the fourth day of June, 1953.

(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 Convention 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 the National Insurance Acts, 1946 to 1952,

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

and the National Insurance (Industrial Injuries) Acts, 1946 to 1952, 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.

SCHEDULE

Convention between the United Kingdom of Great Britain and Northern Ireland and the Italian Republic on Social Insurance

Rome, 28th November, 1951

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Italian Republic,

Being resolved to co-operate in the social field,

Affirming the principle that the nationals of one Contracting Party should receive under the social insurance schemes of the other equal treatment with the nationals of the latter,

Desirous of giving effect to this principle and further of making arrangements whereby, in certain cases, the benefits of the social insurance schemes of each Contracting Party shall be granted to persons in the territory of the other,

Have agreed as follows:—

PART I.—DEFINITIONS AND APPLICATION

Article 1

For the purpose of the present Convention—

(1) " territory " means, in relation to the United Kingdom, England, Scotland, Wales and the Isle of Man, and, in relation to the Italian Republic, Italy ;

(2) " national " means, in relation to the United Kingdom, a citizen of the United Kingdom and Colonies, and, in relation to the Italian Republic, an Italian citizen ;

(3) " legislation " means, according to the context, the legislation of one (or the other) Contracting Party which is specified in Article 2 ;

(4) " competent authority " and " insurance authority " mean, in relation to the Italian Republic, respectively the Minister of Labour and Social Security and an Insurance Institute entrusted with the management of one or more Italian insurance schemes, whereas, in relation to the United Kingdom, the above-mentioned expressions both mean the Ministry of National Insurance (or, in the case of the Isle of Man, the Isle of Man Board of Social Services) ;

(5) " employed person " means a person who comes within the definition of an employed person (or of a person who is treated as an employed person) in the legislation of one (or the other) Contracting Party ; " employment " means employment as an employed person, and the words " employ " and " employer " refer to such employment ;

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

ARTICLE 2

(1) The provisions of the present Convention shall apply—

(*a*) in relation to the United Kingdom, to—

(i) the National Insurance Act, 1946, the National Insurance (Isle of Man) Act, 1948, and the legislation in force before 5th July, 1948, which was replaced by those Acts, establishing insurance schemes in respect of unemployment, sickness, widowhood, orphanhood, old age and death and of the confinement of women, and

(ii) the National Insurance (Industrial Injuries) Act, 1946, and the National Insurance (Industrial Injuries) (Isle of Man) Act, 1948, establishing insurance schemes in respect of personal injury caused by industrial accident and of prescribed diseases and injuries due to employment;

(*b*) in relation to the Italian Republic, to the legislation providing for—

(i) general insurance in respect of invalidity, old age and survivors,

(ii) insurance against industrial accidents and occupational diseases,

(iii) insurance against sickness,

(iv) insurance against tuberculosis,

(v) the physical and economic welfare of women workers in respect of maternity in so far as that legislation concerns the payment of benefits in cash to such women for pregnancy and child-birth,

(vi) special schemes of insurance for prescribed classes of employed persons (namely, for the staff of undertakings which have a concession to operate a public transport or telephone service, for the staff of agencies which have a contract to collect taxes and for seamen), in so far as such schemes relate to the risks and the benefits covered by the legislation set out in items (i) to (v) of this sub-paragraph,

(vii) unemployment insurance.

(2) The present Convention shall also apply to any legislation which has amended or supplemented, or which may in future amend or supplement, the legislation referred to in paragraph (1) of this Article.

(3) The present Convention shall not apply to legislation which may be enacted by either Contracting Party, extending to new classes of persons the insurance schemes mentioned in this Article, unless the Contracting Parties make an agreement to that effect.

PART II.—GENERAL PROVISIONS

ARTICLE 3

(1) A national of one Contracting Party shall be subject to the obligations and shall enjoy the benefits of the legislation of the other Party under the same conditions as if he were a national of the latter.

(2) Subject to the provisions of Sections 3 and 4 of Part III, nothing in the present Convention shall be deemed to confer upon any person a right to be paid in respect of the same period benefits of the same kind under the legislation of both Parties.

ARTICLE 4

The present Convention shall not apply to established members of the foreign service of either Contracting Party.

ARTICLE 5

(1) Subject to the provisions of paragraph (2) of this Article, where a national of either Contracting Party is employed in the territory of one Party, the legislation of that Party shall, notwithstanding any provision thereof to the contrary, apply to him; and contributions in respect of his employment shall not be payable under the legislation of the other Party.

(2) (*a*) Where a national of either Party, ordinarily resident in the territory of one Party and in the service of an employer who has a place of business there, is sent in the course of his employment to work in the territory of the other Party, the legislation of the former Party shall apply to that national, provided that his employment in the latter territory is not expected to last for a period of more than six months. If, however, the employment should continue after such period, the legislation of the Party in whose territory the person concerned is employed shall apply to him.

(*b*) Where a national of either Party is employed by a transport undertaking in the operation of, or 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 head office, shall apply to him.

(3) The competent authorities may from time to time agree that the provisions of paragraphs (1) or (2) of this Article shall not be applied to particular persons or classes of persons.

(4) Where a national of either Party is employed in the territory of one Party, and the legislation of the other Party applies to him in accordance with the provisions of paragraph (2) of this Article, he shall, for the purpose of any title to, or payment of, cash benefit for sickness, maternity, industrial accident or occupational disease or injury, under such legislation, be treated—

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

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

(5) If a national of either Party and his wife are in the territory of one Party, and the legislation of the other Party applies to him in accordance with the provisions of paragraph (2) of this Article, his wife shall, for the purpose of any title to, or payment of, cash benefit to her in respect of maternity under such legislation, be treated as if she were in the territory of the latter Party.

ARTICLE 6

Subject to the provisions of Article 4—

(1) Where a national of one Contracting Party, employed in its Government service and insured under its legislation, is sent to the territory of the other Party, the legislation of the former Party and also the provisions of paragraphs (4) and (5) of Article 5 shall apply to him ;

(2) Where a national of either Contracting Party, other than a national to whom paragraph (1) of this Article applies, is employed by the diplomatic or consular establishments of one Party in the territory of the other, or is employed there by a diplomatic or consular officer of the former Party in his personal capacity, the legislation of the Party in whose territory that national is employed shall apply to him.

ARTICLE 7

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

(*a*) a ship or vessel whose port of registry is in United Kingdom territory as defined in paragraph (1) of Article 1 (other than a ship or vessel of which the owner, or managing owner if there is more than one owner, has his principal place of business in the Irish Republic), or an aircraft registered in the said territory or in Northern Ireland, of which the owner (or managing owner if there is more than one owner) has his principal place of business in that territory.

(*b*) a ship or vessel flying the Italian flag, or an aircraft registered in Italy.

(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 ship or aircraft of the other Party, the legislation of the latter shall apply to him, as if any condition 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 temporarily on board any ship or aircraft of the other Party, is paid remuneration in respect of that employment by some person who has a place of business in the territory of the former Party and who is not the owner of the ship or aircraft, the legislation of the former Party shall, in respect of that employment, apply to that national as if the ship or aircraft were a ship or aircraft of the former Party, and the person by whom the said remuneration is paid shall be treated as the employer for the purposes of such legislation.

(4) A national of either Contracting Party, who is or has been employed on board any ship or aircraft of one Party and who, in accordance with the provisions of paragraph (3) of this Article, remains subject to the legislation of the other Party, shall for the purpose of any title to, or payment of, benefit under such legislation be treated as if he were or had been employed on board a ship or aircraft of the latter Party.

(5) A ship or vessel built in the territory of one Party for a person having his principal place of business in the territory of the other Party shall be deemed to be a ship of the latter Party during the period which elapses between the beginning of the operation of launching and its registration or the completion of the formalities entitling it to fly the flag of any country, and the provisions of paragraph (3) of this Article shall apply as if the said person were the owner of the ship.

(6) The competent authorities may from time to time agree that the provisions of the foregoing paragraphs shall not be applied to particular persons or classes of persons.

PART III.—SPECIAL PROVISIONS

SECTION 1.—BENEFITS IN RESPECT OF UNEMPLOYMENT, SICKNESS (INCLUDING TUBERCULOSIS) AND MATERNITY

ARTICLE 8

(1) A national of either Contracting Party, who goes from the territory of one Party to the territory of the other, shall be entitled, together with his dependants, to receive the benefits provided for under the legislation of the latter Party in respect of unemployment, sickness (including tuberculosis) and maternity, provided that—

(*a*) he has become insured under the legislation of the latter Party;

(*b*) the unemployment or the confinement occurs, or, in the case of sickness benefit, the illness is contracted, after he becomes insured under the legislation of the latter Party;

(*c*) he satisfies the conditions laid down by the legislation of the latter Party entitling persons to receive such benefits, and for this purpose any period during which he has been insured under the legislation of the former Party shall be treated as if it were a period during which he was insured under the legislation of the latter Party, and any contribution paid (or credited as paid) in respect of him under the legislation of the former Party shall, subject to the provisions of Article 22, be treated as if it had been so paid or credited under the legislation of the latter Party.

(2) Nothing in paragraph (1) of this Article shall in any case restrict any right which the national concerned, or his dependants, may have under the legislation of the Party to whose territory he has gone.

(3) A national of either 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 and shall receive cash benefit for sickness from the insurance authority of the Party whose territory he has left, during such period as the insurance authority may allow.

(4) Where a woman, who is a national of either Party or the wife of such a national, is confined in the territory of one (or the other) Party, cash benefit for maternity shall be paid by the insurance authority of the Party under whose legislation the woman, or, in the case of a claim in respect of her husband's insurance, her husband, is paying contributions at the time of the confinement, or was last paying contributions before that time.

SECTION 2.—BENEFITS IN RESPECT OF LONG-TERM SICKNESS AND INVALIDITY

ARTICLE 9

(1) Where a national of either Contracting Party has been insured in respect of long-term sickness benefit under the legislation of the United Kingdom, and in respect of cash benefit for invalidity under the legislation of the Italian Republic, the periods during which he has been insured and the contributions paid (or credited as paid) under the legislation of both parties shall, subject to the provisions of Article 22, be added together for the purpose of determining his right to benefit.

(2) Such benefit shall be payable by the insurance authority of the Party whose legislation applied to the national concerned at the time when the long-term sickness or invalidity was first medically certified.

ARTICLE 10

If, after suspension or discontinuance of long-term sickness benefit provided for by the legislation of the United Kingdom or of cash benefit provided for by the legislation of the Italian Republic, the national concerned again becomes entitled to benefit within a period of one year, the payment of such benefit shall be resumed by the insurance authority responsible for the benefit originally granted, provided that the state of long-term sickness or invalidity is attributable to the disease or disablement in respect of which such benefit was previously granted.

ARTICLE 11

A national of either Contracting Party, who goes from the territory of one Party to the territory of the other, and who is either in receipt of long-term sickness benefit provided for by the legislation of the United Kingdom in respect of a disease or disablement which has been certified to be chronic prior to his departure, or is in receipt of cash benefit for invalidity provided for by the legislation of the Italian Republic, shall retain the right to such benefit, while he is in the latter territory, under the same conditions as would have applied had he remained in the former territory.

ARTICLE 12

The competent authorities shall determine by agreement the methods of medical and administrative supervision of any national of either Party, who is in receipt of long-term sickness benefit or cash benefit by virtue of this Section.

ARTICLE 13

For the purposes of this Part "a long-term sickness benefit provided for by the legislation of the United Kingdom" means—

(*a*) sickness benefit, in respect of a period of interruption of employment as defined in that legislation, which becomes payable to a person after he has in that period become entitled to sickness benefit for three hundred and twelve days;

(*b*) sickness benefit payment of which is resumed under the conditions laid down in Article 10.

SECTION 3.—OLD AGE PENSIONS

ARTICLE 14

(1) Where a national of either Contracting Party, who has been insured for an old age pension under the legislation of both Parties, submits a claim for such a pension to the insurance authority of one Party, that insurance authority shall inform the insurance authority of the other Party. In these cases the insurance authority of each Party shall—

(*a*) for the purpose of deciding whether such national is entitled to a pension under the legislation of that Party, treat any period during which he was insured under the legislation of the other Party as a period during which he was insured under its own national legislation, and, subject to the provisions of Article 22, treat any contributions which have been paid (or credited as paid) in respect of him under the legislation of the latter Party as contributions paid or credited under its own national legislation, and

(*b*) if the national is entitled to a pension under its own national legislation calculate the pension due to him in the following manner. It shall first calculate the pension that would have been due to the national concerned under its own national legislation if all the contributions paid (or credited as paid) in respect of him under the legislation of the other Party had been paid or credited under its own national legislation. The pension actually due to the national concerned from the said insurance authority shall be that part of the pension so calculated which bears the same relation to the whole of the calculated pension as the total of all the periods for which contributions have been paid (or credited as paid) in respect of him under its own national legislation bears to the total of all the periods for which contributions have been so paid or credited under the legislation of both Parties.

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

(*a*) the expression in that paragraph "contributions paid (or credited as paid) in respect of a national" shall be deemed to mean contributions paid (or credited as paid) in respect of 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*) where contributions have been paid (or credited as paid) in respect of a national of either Party under the legislation of the United Kingdom and are treated as having been so paid or credited under the legislation of the Italian Republic, they shall be deemed to have been paid at the average rate of the contribution in fact paid (or credited as paid) in respect of that national under the legislation of the Italian Republic.

(3) Effect shall be given to the provisions of Articles 31, 32 and 33 in applying paragraphs (1) and (2) of this Article.

(4) A national of either Party may be entitled to receive, by virtue of the preceding paragraph of this Article, either a pension from the insurance authority of one of the two Parties or pensions from the insurance authorities of both Parties.

ARTICLE 15

(1) A national of either Contracting Party may, at the time when his right to any benefit mentioned in Article 14 becomes established, choose not to take advantage of the provisions of that Article. In that case the benefit to which he is entitled under the legislation of each Party shall be paid to him separately by its insurance authority, and for this purpose it shall take into account only the periods during which he has been insured under its own legislation and the contributions which have been paid (or credited as paid) under that legislation.

(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 when it is in his interest to do so.

ARTICLE 16

(1) Where a national of either Contracting Party is entitled to an old age pension under the legislation of one Party, he shall be entitled to receive such pension at the appropriate rate, while he is in the territory of the other Party.

(2) For the application of paragraph (1) of this Article, the provisions of the legislation of the United Kingdom respecting the earnings of the national concerned and of his wife shall be applied in Italy by the appropriate Italian insurance authority.

SECTION 4.—BENEFITS IN RESPECT OF WIDOWHOOD AND ORPHANHOOD

ARTICLE 17

The provisions relating to old age insurance contained in Articles 14 and 16 shall apply (with such modifications as the differing nature of the benefits shall require) to the grant of a survivor's pension to the widow of a national of either Contracting Party or for a child who has lost one or both parents; but they shall not apply to the grant of a pension under the legislation of the Italian Republic to a widower or for a child whose father is alive.

SECTION 5.—BENEFITS IN RESPECT OF INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES OR INJURIES

ARTICLE 18

(1) Where a national of either Contracting Party would be entitled to any benefit (including any increase thereof or any additional allowance payable therewith) under the legislation of one Party in respect of an industrial accident or an occupational disease or injury but for his absence from the territory of that Party, that national shall be entitled to and may receive such benefit in respect of any period during which he is in the territory of the other Party.

(2) The competent authorities shall co-operate in arranging for the medical examination, and in securing the medical and administrative supervision, of any person in receipt of benefit in respect of an industrial accident or an occupational disease or injury.

SECTION 6.—PROVISIONS RELATING TO THE PAYMENT OF BENEFITS

ARTICLE 19

(1) In all cases where under the legislation of one Contracting Party 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 had been in the territory of that Party, such benefit or increase thereof shall be paid in cases where the dependant is in the territory of the other Party.

(2) In the case where a benefit, 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 such child were in one territory, such benefit or increase thereof shall be paid notwithstanding that the child is in the other territory.

ARTICLE 20

(1) Where, under the provisions of Sections 2, 3, 4 and 5 of this Part, benefit is payable by an insurance authority of one Contracting Party to a person in the territory of the other Party, the payment will be made by the appropriate insurance authority of the latter Party as agent for the former authority—

(*a*) in relation to the United Kingdom, in the case of—

(i) long-term sickness benefit,

(ii) old age pensions,

(iii) benefit for widowhood or orphanhood,

(iv) pensions (including pensions payable to survivors) in respect of industrial accidents, or of occupational diseases or injuries, where such pensions have been finally assessed;

(*b*) in relation to the Italian Republic, in the case of—

(i) cash benefit in respect of invalidity,

(ii) old age pensions,

(iii) pensions (including pensions payable to survivors) in respect of industrial accidents or occupational diseases.

(2) In all other cases the benefit shall be paid to the person entitled to receive it by the insurance authority from which it is due.

ARTICLE 21

(1) Any benefit specified in paragraph (1) (*a*) of Article 20, and payable in Italy in accordance with the provisions of that Article, may be paid, except in the case of a lump-sum payment, in arrear at monthly intervals.

(2) Any question as to the right to any benefit referred to in paragraph (1) (*a*) of Article 20 shall be determined by the competent authority of the United Kingdom after such enquiry and consultation as it may deem necessary. Its decision, without prejudice to the right to review such decision if new facts are brought to its notice, shall be final.

ARTICLE 22

In so far as contributions have been paid (or credited as paid) under the legislation of both Contracting Parties in respect of the same period, account shall be taken, for the purpose of paragraph (1) (*c*) of Article 8, of paragraph (1) of Article 9 or of paragraph (1) of Article 14, of those contributions which were paid (or credited as paid) under the legislation of the Party in whose territory the person concerned was resident at the time.

PART IV.—MISCELLANEOUS PROVISIONS

ARTICLE 23

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 measures taken by them for the application of the Convention; and

(3) shall communicate to each other information regarding any changes made in their legislation, which affect the application of the Convention.

ARTICLE 24

The competent authorities and the insurance authorities shall furnish one another assistance in the application of the present Convention as if the matter were one affecting the application of their own insurance schemes.

ARTICLE 25

(1) The benefit of any exemption from legal dues, charges and fees, provided for in the legislation of one Contracting Party in respect of any certificate or other document, shall be extended in relation to any certificate or other document required for the purpose of applying the legislation of the other Party.

(2) Any requirement imposed by the legislation of either Party relating to the legalisation or authentication by its diplomatic or consular officials of any certificate or other document shall be waived in connexion with any certificate or other document which has to be produced for the purpose of applying the present Convention.

ARTICLE 26

Any claim, notice or appeal which should have been presented to the insurance authority of one Contracting Party, but which is in fact presented to the insurance authority of the other Party, shall be treated as if it had been presented to the insurance authority of the former Party. In such cases, the insurance authority of the latter Party shall, as soon as possible, transmit the claim, notice or appeal to the insurance authority of the former Party.

ARTICLE 27

The competent authorities and the insurance authorities may correspond in their own official language directly with one another or with any person concerned (or his legal representative) in regard to the application of the present Convention.

ARTICLE 28

Any claim or document, presented by a national of either Contracting Party or his dependents to the competent authorities of one Party or to their insurance authorities pursuant to the present Convention, may be written in the official language of the other Party.

ARTICLE 29

(1) Payment of any benefit in accordance with the provisions of the present Convention may be made in the currency of the Contracting Party whose insurance authority makes the payment.

(2) Where the insurance authority of one Contracting Party has, under the present Convention, paid any benefit in the currency of that Party on behalf of the insurance authority of the other Party, the latter authority shall discharge its liability to the former authority by repaying in the currency of the former Party the exact amount of the benefit so paid.

ARTICLE 30

The competent authorities or the insurance authorities may, in the event of a disagreement regarding responsibility for the payment of any benefit referred to in the present Convention, make provisional payments to the person concerned pending the settlement of the disagreement.

ARTICLE 31

The competent authorities shall, subject to the provisions of Article 32, determine by agreement in what manner and within what times claims and notices of retirement may be made or given in relation to any old age pension referred to in the present Convention and the date from which any such pension shall be payable.

ARTICLE 32

A United Kingdom old age pension, which within a period of six months after the entry into force of the present Convention becomes payable by virtue of its provisions, shall be paid from the date on which it becomes so payable, if, within the said period, the claim therefor is made and any relevant notice of retirement is given. If, within the said period, the claim is not made or any such notice is not given, the provisions of Article 31 shall apply.

ARTICLE 33

(1) In any case where a national of either Contracting Party left United Kingdom territory, as defined in paragraph (1) of Article 1, before 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 Italy, to draw 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 said territory, provided that he furnishes satisfactory evidence of identification.

(2) In any case where a national of either Party left the said territory before 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 draw such a pension on the conditions set out in paragraph (1) of this Article, provided that, before he left the said territory, one or more contributions in respect of insurance for such a pension had been paid since 1st July, 1940, by or in respect of him (or, in the case of a pension the right to which is acquired by a married woman by virtue of her husband's insurance, by or in respect of her husband).

(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 pensioner left the said territory the rate shall be the rate applicable in the territory at the time when the pension was last paid;

(*b*) if the pension was not paid before the pensioner left the said territory by reason of delay in making, or failure to make, a claim, the rate shall be the rate of pension to which the pensioner was entitled immediately before his leaving the said territory;

(*c*) if the pension was not paid before the pensioner left the said territory because the pensioner (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 had the pensioner remained in the said territory until the pensioner (or her husband, as the case may be) attained that age.

(4) Where a national of either Party insured under the legislation of the United Kingdom left the said territory before 5th July, 1948, and attained pensionable age after that date, he shall be entitled to have any contribution which was paid (or credited as paid) after 1st July, 1940, in respect of him under that legislation, taken into account for the purpose of determining his right to a pension under the present Convention, provided that, within the period during which he was regarded under that legislation as having continued to be insured, he became insured and continued to be insured, until 5th July, 1948, under Italian legislation.

Article 34

The provisions of Articles 31, 32 and 33 shall apply in relation to benefits in respect of widowhood and orphanhood subject to such modifications as the differing nature of such benefits shall require.

Article 35

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

(2) Subject to paragraph (1) of this Article, where a benefit (other than a lump-sum payment) is payable in accordance with the provisions of the Convention in respect of an event for which benefit is provided for under the legislation of either Contracting Party, it shall be paid notwithstanding that the event in respect of which the benefit is claimed occurred before the date of the entry into force of the Convention, and for this purpose—

(*a*) any benefit which has been either suspended or never awarded because the person concerned has not made a claim or is absent from the territory of either Party shall, from that date, be paid or determined and paid, as the case may be, in accordance with the provisions of the Convention;

(*b*) any benefit which has been determined shall, where necessary, be determined afresh from that date, in accordance with the provisions of the Convention, provided that its capital value has not been liquidated.

(3) Any period during which a national of either Party has been insured before the date of the entry into force of the Convention and also the contribu-

tions which have been paid (or credited as paid) in respect of that national before that date shall, subject to the provisions of Article 33, be taken into account for the purpose of determining the right to benefit in accordance with the provisions of the Convention.

ARTICLE 36

(1) The Contracting Parties shall endeavour to resolve by negotiation any disagreement which may arise as to the interpretation or application of the present Convention.

(2) If any such disagreement cannot be resolved by 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 agreed upon by the Contracting Parties, or, 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.

(3) The decision of the arbitral body, or arbitrator, as the case may be, shall be accepted as final and binding.

ARTICLE 37

The Contracting Parties shall, where necessary, conclude one or more agreements based on the principles of the present Convention for the purpose of supplementing its provisions.

ARTICLE 38

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 39

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

ARTICLE 40

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 and affixed thereto their seals.

Done in duplicate at Rome the twenty-eighth day of November, 1951, in the English and Italian languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

(L.S.) ANTHONY EDEN.

For the Italian Republic:

(L.S.) DE GASPERI.

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 Schedule) made between the Governments of the United Kingdom and Italy, and modifies the National Insurance Acts, 1946 to 1952, and the National Insurance (Industrial Injuries) Acts, 1946 to 1952, in their application to persons affected by that agreement.

1953 No. 395

The National Insurance and Industrial Injuries (Reciprocal Agreement with the Republic of Ireland) Order, 1953

Made - - - -	11*th March*, 1953
Coming into Operation	16*th March*, 1953

At the Court at Buckingham Palace, the 11th day of March, 1953

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, commencement and interpretation

1.—(1) This Order may be cited as the National Insurance and Industrial Injuries (Reciprocal Agreement with the Republic of Ireland) Order, 1953, and shall come into operation on the 16th March, 1953.

(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 Agreement relating to Insurance and Workmen's Compensation set out in Schedule A to this Order shall have full force and effect so far as the same relate to Great Britain, and the National Insurance Acts, 1946 to 1952, and the National Insurance (Industrial Injuries) Acts, 1946 to 1952, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to the provisions contained in the said Agreement.

Revocations

3. The Orders specified in Schedule B to this Order are hereby revoked, but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred, thereunder.

W. G. Agnew.

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