The National Insurance and Industrial Injuries (Reciprocal Multilateral Agreement) (France and the Netherlands) Order, 1951

1951 No. 972

Made - - - -	31*st May*, 1951
Coming into Operation	1*st June*, 1951

At the Court at Buckingham Palace, the 31st day of May, 1951

Present,

The King'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 is set out in the Schedule hereto) was signed on behalf of those Governments;

And Whereas by Article 13 of the said 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 Whereas the said Convention has been 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 said Convention enters into force between those Governments on the 15th day of May, 1951;

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 His 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, His 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 Him in that behalf, is pleased, by and with the advice of His 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 Multilateral Agreement) (France and the Netherlands) Order, 1951, and shall come into operation on the 1st June, 1951.

(a) 9 & 10 Geo. 6. c. 67. (b) 9 & 10 Geo. 6. c. 62.

(2) The Interpretation Act, 1889(a), 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 provide by way of agreement with the Government of France and with the Government of the Netherlands 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 1949, shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

E. C. E. Leadbitter.

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(b), to extend their co-operation in the social field;

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 with 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.

(a) 52 & 53 Vict. c. 63. (b) "Treaty Series No. 1 (1949)," Cmd. 7599.

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.

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 to the above regulations) made between the Governments of the United Kingdom of Great Britain and Northern Ireland, Belgium, France, Luxembourg and the Netherlands (Cmd. 7911) in so far as the provisions of that Convention provide for reciprocity with France and with the Netherlands (the two other countries which up to the date of the making of the Order in Council have ratified the Convention) in relation to the National Insurance Acts, 1946 to 1949, and modifies those Acts in their application to cases affected by any such provisions of the Convention.