1966 No. 270

NATIONAL INSURANCE

The National Insurance (Republic of Ireland) Order 1966

Made - - - - *10th March 1966*

[Bilateral and multilateral reciprocal social security agreements between the United Kingdom and other Member States of the European Communities have generally been superseded, for nationals of those States, by the provisions of Council Regulations (EEC) Nos. 1408/71 and 574/72 to the extent provided by Article 6 of Regulation (EEC) No. 1408/71 subject to the exceptions prescribed by that Article and set out in Articles 7, 8 and 46(4) of that Regulation. The following Instrument, while largely superseded for the above reason, will still be of interest in its effect on persons or matters not covered by that Regulation, eg on persons who are not nationals of any of the Member States of the European Communities.]

[Under S.I. 1976/225, references in the following Order to provisions of the National Insurance Acts 1965 to 1974 and the National Insurance (Industrial Injuries) Acts 1965 to 1974 have effect, with certain modifications, as references to the corresponding or most nearly corresponding provisions of the Social Security Act 1975 (c.14).]

[Under S.I. 1988/591, any provision in the following Order relating to the calculation of widow's allowance under U.K. legislation includes a reference to a widow's payment under U.K. legislation.]

[Under art. 2 of S.I. 1995/767 the SSC&B Act 1996 (c.4), the SSA Act 1992 (c.5) and the Jobseekers Act 1995 (c.18) are modified so that the effect can be given to the proposal that any references in the Agreement set out in the Schedule to this Order, to sickness benefit, invalidity benefit or invalidity pension under UK legislation shall include short-term incapacity benefit or long-term incapacity benefit.]

At the Court at Buckingham Palace, the 10th day of March, 1966

Present,

The Queen's Most Excellent Majesty in Council

Whereas at Dublin on 28th February 1966, an Agreement on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland (which Agreement is set out in the Schedule to this Order and is hereinafter referred to as "the Agreement") was signed on behalf of those Governments:

And Whereas by Article 5 of the Agreement it is provided that the Agreement shall have effect from 4th April 1966:

And Whereas by section 105 of the National Insurance Act 1965**(a)**, it is provided that Her Majesty may, by Order in Council, make provision for

(a) 1965 c. mmm 51.

modifying or adapting that Act in its application to cases affected by agreements with other governments providing for reciprocity in matters specified in that section:

Now, therefore, Her Majesty, in pursuance of the said section 105 of the National Insurance Act 1965 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Citation and interpretation

1.—(1) This Order may be cited as the National Insurance (Republic of Ireland) Order 1966.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(a)** shall apply for the purpose of the interpretation of this Order as they apply to the interpretation of an Act of Parliament.

Modification of Act

2. The provisions contained in the Agreement shall have full force and effect, so far as the same relate to Great Britain and provide for reciprocity with the Government of the Republic of Ireland in any matters specified in section 105(1) of the National Insurance Act 1965; and the National Insurance Act 1965 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to any such provisions.

W. G. Agnew.

(a) 1889 c. 63.

SCHEDULE

AGREEMENT ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND

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

Being resolved to co-operate in the social field,

Desiring to made arrangements enabling persons, who go from one country to the other, to receive pensions and other social security benefits,

Have agreed as follows:-

PART I

DEFINITIONS AND GENERAL PROVISIONS

Article 1

(1) In this Agreement, unless the context otherwise requires–

▶ "the legislation of the United Kingdom" means, according to the context, the National Insurance Act 1965, the National Insurance (Industrial Injuries) Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Acts 1948 to 1966 or the National Insurance (Industrial Injuries) (Isle of Man) Acts 1948 to 1966, and includes enactments repealed or consolidated by, or repealed by enactments consolidated by, those Acts;

"the legislation of the Republic of Ireland" means the Social Welfare Acts 1952 to 1968, and includes enactments repealed by those Acts;◀

Definitions substituted by art. 3(1) of Sch. to S.I. 1968/1655 as from 4.11.68.

▶ "competent authority" means, in relation to the United Kingdom, according to the context, the Secretary of State for Social Services or the Ministry of Health and Social Services for Northern Ireland or the Isle of Man Board of Social Security and, in relation to the Republic of Ireland, the Minister for Social Welfare;◀

Definition substituted by art. 1(2) of Sch. to S.I. 1971/1742 as from 27.10.71.

"the United Kingdom" includes the Isle of Man;

"country" means the United Kingdom or the Republic of Ireland, as the case may require;

▶ "the United Kingdom Fund" means, according to the context, the National Insurance Fund, the Industrial Injuries Fund, the Northern Ireland National Insurance Fund, the Northern Ireland Industrial Injuries Fund, the Manx National Insurance Fund or the Manx Industrial Injuries Fund established under the legislation of the United Kingdom;

"the Fund of the Republic of Ireland" means, according to the context, the Social Insurance Fund or the Occupational Injuries Fund established under the legislation of the Republic of Ireland◀;

Definitions substituted by art. 3(1) of Sch. to S.I. 1968/1655 as from 4.11.68.

"the first contribution condition", "the second contribution condition" and "the third contribution condition" mean, in relation to old age (contributory) pension under the legislation of the Republic of Ireland, the conditions contained respectively in sub-paragraphs (a), (b) and (c) of paragraph 6 of

the Fourth Schedule to the Social Welfare Act, 1952 (which paragraph was added thereto by the Social Welfare (Amendment) Act, 1960);

"the first contribution condition" and "the second contribution condition" mean, in relation to widow's (contributory) pension under the legislation of the Republic of Ireland, the conditions contained respectively in sub-paragraphs (a) and (b) of paragraph 4 of the said Fourth Schedule;

Definition substituted by art. 1(2) of Sch. to S.I. 1971/1742 as from 27.10.71.

► "yearly average", with respect to any person, means–

(a) in relation to the legislation of the United Kingdom, the yearly average of the contributions paid by or credited to him ascertained in accordance with that legislation at the date of his attaining pensionable age or dying under that age;

(b) in relation to the legislation of the Republic of Ireland, the average per contribution year of the contributions paid by or credited to him ascertained in accordance with that legislation for the purposes of satisfying, according to the context,

(i) the third contribution condition for either retirement pension or old age (contributory) pension or

(ii) the second contribution condition set out in paragraph 4(b)(ii) of the Fourth Schedule to the Social Welfare Act, 1952 (as amended by the Social Welfare (Miscellaneous Provisions) Act. 1966) for widow's (contributory) pension by virtue of the insurance of the widow's late ►spouse or civil partner◄◄;

Words substituted in definition of "yearly average" by art. 2 of S.I. 2005/2766 as from 5.12.05.

Definition substituted by art. 1(2) of Sch. to S.I. 1971/1742 as from 27.10.71.

► "old age benefit" means retirement pension (other than graduated retirement benefit) under the legislation of the United Kingdom and retirement pension or old age (contributory) pension under the legislation of the Republic of Ireland;◄

"retirement pension" means retirement pension under the legislation of the United Kingdom but does not include contributory old age pension under that legislation;

"old age (contributory) pension" means old age (contributory) pension under the legislation of the Republic of Ireland;

"widow's benefit" and "widow's pension" do not include widow's basic pension under the legislation of the United Kingdom;

"pre-entry credits" means the contributions falling, under the legislation of the country concerned, to be credited in respect of the period before a person's entry into insurance under that legislation;

"entry into insurance" means, in a case where entry into insurance before 5th July, 1948, is taken into account under the legislation of the United Kingdom, last entry into insurance;

"the relevant time" has, in relation to contribution conditions under the legislation of either country, the meaning assigned to it under that legislation;

Definitions added by art. 3(2) of Sch. to S.I. 1968/1655 as from 4.11.68.

► "the earlier agreements" means all previous agreements between the Government of the two countries or the competent authorities of the two countries providing for reciprocity in relation to the subject-matter of the legislation of the two countries;

"benefit" means any benefit, pension, allowance or grant under the legislation of the United Kingdom or under the legislation of the Republic of Ireland, as the case may require;

"occupational injuries benefit" means injury benefit, disablement benefit and death benefit under the legislation of the United Kingdom or under the legislation of the Republic of Ireland, as the case may require;

"industrial injury" or "industrial disease" means, respectively, an injury or disease in respect of which occupational injuries benefit is payable;

"non-domiciled airman" means, for the purposes of the legislation of the United Kingdom, an airman for those purposes who neither is domiciled

nor has a place of residence in the United Kingdom and, for the purposes of the legislation of the Republic of Ireland, means an airman for those purposes who neither is domiciled, nor has a place of residence in the Republic of Ireland◀;

▶ "contribution of the appropriate class" means a contribution under the legislation of one (or the other) country having effect for all the purposes of the benefit in question;

Definitions added by art. 1(3) of Sch. to S.I. 1971/1742 as from 27.10.71.

"invalidity pension" has the meaning assigned to it in the legislation concerned;

"relevant reciprocal provisions" means the provisions of any reciprocal agreement made before 1966 between the Contracting Parties or the competent authorities of the two countries◀.

(2)(a) References in this Agreement to the legislation of a particular country shall be construed as references to the legislation of the United Kingdom or the legislation of the Republic of Ireland, as the case may require.

(b) References in this Agreement to the Fund of a particular country shall be construed as references to the United Kingdom Fund or the Fund of the Republic of Ireland, as the case may require.

(3) In this Agreement, in relation to retirement pension, references to a ▶spouse or civil partner◀ shall be construed as including references to a ▸widow, widower or surviving civil partner◂ or late ▸spouse or civil partner◂, and references to a retirement pension by virtue of a ▸spouse or civil partner's◂ insurance shall be construed as including references to a retirement pension by virtue of a ▸widow, widower or surviving civil partner◂ own insurance in a case where account is taken of ▸his or her◂ late ▸spouse or civil partner's◂ contributions in calculating ▸his or her◂, yearly average.

Words in art. 1(3) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(4) Subject to the provisions of paragraph (5) of this Article, references in this Agreement to any enactment, order or regulations shall include references to such enactment, order or regulations as amended, modified, adapted, extended, supplemented or consolidated by any subsequent enactment, order or regulations.

(5) The provisions of paragraph (4) of this Article shall apply only if and to the extent that the Contracting Parties so agree, to any enactment, order or regulation which amends, modifies, adapts, extends or supplements the legislation of either country for the purpose of giving effect to any reciprocal agreement or arrangements on social security which one (or the other) Party or the competent authority of either country has made with a third Party or a competent authority outside the two countries.

Article 2

(1) For the purposes of this Agreement, an insured person under the legislation of either country shall include a person who by virtue of any reciprocal agreements made between the Contracting Parties or the competent authorities of the two countries for the purposes of sickness or disability benefit, received sickness or disability benefit under the legislation of that country or in respect of whom insurance, contributions paid, credited, excused or deemed to be or treated as paid, under the legislation of the other country had been treated as insurance, contributions paid, credited, excused or deemed to be or treated as paid, under the legislation of the first-mentioned country for the purposes of sickness or disability benefit.

(2) Contributions credited to any person under the legislation of one country for the purpose of sickness or disability benefit, being contributions so credited for any period of incapacity (whether before or after the date of coming into force of this Agreement) for which he was or is entitled to such benefit under that

legislation by virtue of the relevant reciprocal provisions, shall have effect as contributions credited for all purposes under that legislation; and the relevant reciprocal provisions shall apply for the purpose of exception from liability to pay contributions and of enabling contributions to be credited for periods of incapacity as they apply for the purpose of sickness or disability benefit.

(3) In the foregoing paragraph, "the relevant reciprocal provisions" means the provisions in any reciprocal agreement such as is referred to in paragraph (1) of this Article which provide for the taking into account, for the purpose of sickness or disability benefit under the legislation of one country, of insurance or contributions under the legislation of the other country.

Article 3

(1) Old age benefit under the legislation of one country shall be paid to a person who is in, or is resident in, the other country as if he were not, as the case may be, absent from or resident outside the first-mentioned country.

(2) The presence, residence or birth of a child or adult dependant in one country (whether before or after this Agreement has effect) shall, for the purpose of an increase of old age benefit in respect of that child or adult dependant under the legislation of the other country, be treated as if it were or had been presence, residence or birth in that other country.

(3) Where, in accordance with any reciprocal agreements made between the Contracting Parties or the competent authorities of the two countries for the purposes of widow's benefit (hereafter in this Article called "the existing reciprocal agreements"), widow's benefit (as therein defined) under the legislation of either country falls to be paid to a ▶widow, widower or surviving civil partner◀ who is resident in the other country, the rate of such benefit shall, in respect of any period after the coming into force of this Agreement, be determined as if ▸he or she◂, were then resident in the former country, and any provision in the existing reciprocal agreements limiting the rate of benefit in such a case shall cease to have effect.

Words in art. 3(3) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(4) For the purposes of this Article old age benefit includes, in relation to the legislation of the United Kingdom, graduated retirement benefit and contributory old age pension under that legislation.

Article 4

The competent authorities shall from time to time determine the procedure appropriate for the purposes of this Agreement and all matters of an incidental or supplementary nature which in their opinion are relevant for the purpose of giving effect thereto.

Article 5

This Agreement shall come into force on the 4th day of April, 1966, and shall remain in force for a period of one year from that date.

Thereafter it shall continue in force from year to year unless–

(a) the Contracting Parties agree to terminate it; or

(b) either Party gives notice of termination in writing at least six months before the expiry of any such yearly period.

PART II
OLD AGE BENEFIT

(Articles 6 and 7 modified by articles 4–6 of Schedule to S.I. 1971/1742 as from 27.10.71.)

Article 6

(1) Subject to the provisions of this Part of this Agreement, a person who is or

has been an insured person under the legislation of both countries may at any time after attaining the age of 70 elect to have his insurance under the legislation of the United Kingdom transferred to the Republic of Ireland for the purposes of old age (contributory) pension, if the following conditions are satisfied, namely:-

(a) that the person is not entitled to old age benefit under the legislation of both countries;

(b) that the person attained the age of 65, in the case of a man, or 60, in the case of a woman, and was insured under the legislation of the United Kingdom, on or after 5th July, 1948;

(c) in the case only of a person entitled so to elect under the provisions of the legislation of the United Kingdom relating to pre-1948 contributors and persons over the age of 55, in the case of a man, or 50, in the case of a woman, on 5th July, 1948, that the person has not made an election not to be qualified for a retirement pension; and

(d) in the case only of a person (not being a person referred to in the preceding sub-paragraph) who has received a refund on his contributions under the legislation of the United Kingdom, that the person has repaid that refund to the competent authority of the United Kingdom:

Provided that a person who has not attained the age of 70 may make an election under this Article not more than three months before the date on which he will attain that age.

(2) Every election by a person under this Article shall be made by his giving notice in writing to the competent authority of either country and each such election shall be treated under the legislation of the Republic of Ireland as a claim to old age (contributory) pension.

(3) Any such election by a person may be cancelled by him at any time by giving notice in writing to the competent authority of either country to that effect, and such cancellation shall take effect from a date agreed by the competent authorities.

(4) Where an election has been made by a person under this Article and remains in force, then, for the purposes of determining his title to old age (contributory) pension:-

(a) where this would be an advantage to him, he shall be treated for the purpose of the first and second contribution conditions as if his entry into insurance under the legislation of the United Kingdom had been entry into insurance under the legislation of the Republic of Ireland and as if any contributions as an insured person paid by him under the former legislation had been employment contributions paid in respect of him under the latter legislation;

(b) if his entry into insurance under the legislation of the United Kingdom was on or after 5th January, 1953, but before his entry into insurance under the legislation of the Republic of Ireland he shall be treated under the latter legislation for the purposes of pre-entry credits and the ascertainment of his yearly average as if he had entered insurance thereunder on the date of his entry into insurance under the legislation of the United Kingdom;

(c) if his entry into insurance under the legislation of the United Kingdom was before 5th January, 1953, he shall be treated under the legislation of the Republic of Ireland for the purposes of pre-entry credits and the ascertainment of his yearly average as if such entry had been an entry into insurance under the legislation of the Republic of Ireland;

(d) where this would be of advantage to him, and provided that his yearly average under the legislation of the Republic of Ireland, the provisions of sub-paragraphs (b) and (c) of this paragraph being applied where appropriate, is six or more, his yearly average under the legislation of the United Kingdom shall be added to his yearly average thus ascertained under the legislation of the Republic of Ireland and the sum shall then be treated as his yearly average for the purpose both of satisfying the third contribution condition and of determining the rate of his old age (contributory) pension.

(5) Where an election has been made by a person under this Article and remains in force, and that person is or would, but for the provisions of this paragraph, be entitled to a retirement pension, no such pension shall (save as provided in Article 10) be payable to that person.

(6) Where any amount by way of benefit under the legislation of one country has been paid in respect of any period after an election or cancellation of an election becomes operative and it is afterwards found that, by reason of such election or cancellation, that amount was not payable but benefit was payable (whether to the same person or to that person's ▶spouse or civil partner◀) for the same period under the legislation of the other country, the amount so paid shall be treated as having been paid on account of the benefit due under the legislation of the latter country.

Words in art. 6(6) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

Article 7

(1) In the case of a person who is a ▶married person or civil partner◀ at the time of giving a notice of election or cancellation of an election under the foregoing Article, the notice shall not take effect unless either his ▸his or her spouse or civil partner◂ consents in writing to the election or cancellation or the competent authority of the United Kingdom is satisfied that ▸she or he◂ cannot be traced or is unable to act or that for some other reason ▸his or her◂ consent may be dispensed with.

Words in art. 7(1) & (2) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(2) Where an election has been made by a ▸person◂ under the foregoing Article and remains in force, no retirement pension or widow's benefit under the legislation of the United Kingdom shall (save as provided in Article 10) be payable by virtue of▸his or her◂ insurance to ▸his or her spouse or civil partner◂, but, where, but for such an election, a retirement pension would have been payable to his ▸his or her spouse or civil partner◂ any increase of ▸his or her◂ old age (contributory) pension payable in respect of ▸him or her◂ may, if ▸she or he◂ so requests by notice in writing given to the competent authority of the Republic of Ireland, be paid to ▸him or her◂ instead of to ▸his or her spouse or civil partner◂:

Provided that where the ▸person◂ dies while an election remains in force, ▸his or her widow, widower or surviving civil partner◂ may cancel the election in the manner provided by Article 6(3) and thereafter no widow's benefit shall be payable to ▸him or her◂ under the legislation of the Republic of Ireland arising out of that election.

(3) Where a married person is entitled to old age (contributory) pension by virtue of the foregoing Article, no increase of that pension shall be payable in respect of his or her ▶spouse or civil partner◀ for any period for which that ▸spouse or civil partner◂ is entitled to a retirement pension by virtue of her or his own insurance:

Words in art. 7(3) & sub-para (3)(a) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

Provided that–

(a) in such a case the ▸spouse or civil partner◂ may by notice in writing to the competent authority of the United Kingdom choose from time to time to be or not to be entitled to the last-mentioned pension for any week commencing after the date on which such notice is so given, so however

that for any period in respect of which no such notice is given she or he shall be treated as if she or he had chosen to be entitled to that pension;

(b) the provisions of paragraph (6) of the foregoing Article shall apply to a choice under this Article as they apply to an election under that Article; and

(c) references in this paragraph, or in a notice of choice thereunder, to a retirement pension shall be deemed not to include such part (if any) of that pension as is referred to in Article 10(1)(a) and (b).

PART III

BENEFIT FOR ▸DEATH OF A SPOUSE OR CIVIL PARTNER◂

Words in heading to and arts. 8(1)-8(1)(a)(iii) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(Articles 8 and 9 modified by articles 4–6 of Schedule to S.I. 1971/1742 as from 27.10.71.)

Article 8

(1) Subject to the provisions of this Article, a ▸person◂ whose ▸spouse or civil partner◂ (not being a person who attained the age of 65 or died before 5th July, 1948) was or had been an insured person under the legislation of both countries may at any time after ▸his or her◂ death elect to have ▸his or her◂ insurance under the legislation of the United Kingdom transferred to the Republic of Ireland for the purposes of widow's (contributory) pension, if the following conditions are satisfied, namely either:–

(a) the ▸spouse or civil partner◂ died before the date of coming into operation of ▸his or her◂ Agreement and–

(i) on that date ▸she or he◂ was entitled under the legislation of the United Kingdom to a widowed mother's allowance, a widow's pension or a retirement pension by virtue of the ▸spouse or civil partner's◂ insurance; or

(ii) ▸she or he◂ had attained the age of 50 before the ▸spouse or civil partner's◂ death; or

(iii) ▸she or he◂ has at the time of the election a person under the age of 19 residing with ▸him or her◂ being a person whose residence with ▸him or her◂ would, apart from ▸her or him◂ making a claim and satisfying the relevant contribution conditions, qualify ▸him or her◂ for a widowed mother's allowance under the legislation of the United Kingdom; or

(b) the ▸spouse or civil partner◂ died on or after the date of coming into operation of this Agreement and on the date of ▸his or her◂ election–

Words in arts. 8(1)(b)-(c) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(i) ▸she or he◂ is entitled under the legislation of the United Kingdom to a widowed mother's allowance, a widow's pension or a retirement pension by virtue of the ▸spouse or civil partner's◂ insurance; or

(ii) ▸she or he◂ would be so entitled if the relevant contribution conditions were satisfied and ▸she or he◂ made a claim; and

(c) whether sub-paragraph (a) or (b) of this Article applies, the ▸spouse or civil partner◂ did not receive such a refund of contributions as is referred to in Article 6(1)(d), or, if ▸she or he◂ did, it has been repaid to the competent authority of the United Kingdom.

(2) The provisions of Article 6(2), (3) and (6) shall apply to an election under this Article as they apply to an election under Article 6, and as if the reference in Article 6(2) to old age (contributory) pension were a reference to widow's (contributory) pension.

Words in art. 8(3) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(3) Where an election has been made by a ▶person◀ under this Article and remains in force, then, for the purposes of determining ▸his or her◂ title to a widow's (contributory) pension–

(a) where this would be of advantage to ▸his or her◂, ▸she or he◂ shall be treated for the purpose of the first contribution condition as if any contributions as an insured person paid by the ▸spouse or civil partner◂ under the legislation of the United Kingdom had been employment contributions paid in respect of ▸him or her◂ under the legislation of the Republic of Ireland:

Provided that the provisions of this sub-paragraph shall not apply to contributions for any period before 5th July, 1948, unless they were paid in a period of insurance which was effective immediately before 5th July, 1948, or would have been so effective if any contribution paid or period of incapacity occurring in the Republic of Ireland had been a contribution paid or period of incapacity occurring in the United Kingdom;

(b) where the ▸spouse or civil partner's◂ entry into insurance under the legislation of the United Kingdom was before ▸his or her◂ entry into insurance under the legislation of the Republic of Ireland, ▸he or she◂ shall be treated under the latter legislation for the purposes of the ▸spouse or civil partner's◂ pre-entry credits, the applicability of the second contribution condition and, where that condition applies, the calculation of ▸his or her◂ yearly average as if ▸he or she◂ had entered insurance under the legislation of the Republic of Ireland on the date of ▸his or her◂ entry into insurance under the legislation of the United Kingdom;

(c) where this would be of advantage to ▸him or her◂, for the purpose of the second contribution condition (where it applies), provided that the ▸spouse or civil partner's◂ yearly average under the legislation of the Republic of Ireland, the provisions of sub-paragraph (b) of this paragraph being applied where appropriate, is six or more, ▸his or her◂ yearly average under the legislation of the United Kingdom shall be added to ▸his or her◂ yearly average thus ascertained under the legislation of the Republic of Ireland and the sum shall then be treated as ▸his or her◂ yearly average under the latter legislation; and

(d) where the first contribution condition is satisfied on the ▸spouse or civil partner's◂ insurance under the legislation of the Republic of Ireland without the application of sub-paragraph (a) of this paragraph but, notwithstanding the provisions of sub-paragraph (c) of this paragraph, the second contribution condition (where it applies) is not satisfied, any contributions paid by or credited to the ▸spouse or civil partner◂ under the legislation of the United Kingdom in each of the last five contribution years ended before the relevant time under that legislation shall, for the purpose of satisfying the latter condition, be treated as contributions paid by or credited to ▸him or her◂ under legislation of the Republic of Ireland in the corresponding year of the last five contribution years ended before the relevant time under the latter legislation.

Article 9

Words in art. 9(1) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(1) Where an election has been made by a ▶person◀ under the foregoing Article and remains in force, no widow's benefit, widow's basic pension, retirement pension or contributory old age pension shall (save as provided in Article 10) be payable to ▸him or her◂ under the legislation of the United Kingdom:

Provided that nothing in the provisions of this paragraph shall prevent the crediting to ▸him or her◂ under that legislation of any contribution which would apart from those provisions fall to be so credited.

(2) Where, apart from the foregoing paragraph, a ▶person◀ ceases or would cease to be entitled to a widowed mother's allowance under the legislation of the United Kingdom at a time when ▸he or she◂ is under the age of 50, any election by ▸him or her◂ under the foregoing Article shall have effect for any subsequent period only if ▸he or she◂ is resident in the Republic of Ireland at the time of such cessation of entitlement and for as long as ▸he or she◂ is so resident.

Words substituted in art. 9(2) by art. 2 of S.I. 2005/2765 as from 5.12.05.

PART IV

MISCELLANEOUS PROVISIONS

Article 10

(1) The provisions of Articles 6(5), 7(2) and 9(1) shall not prevent the payment of widow's benefit or retirement pension in the cases to which they apply in so far as that benefit or pension consists of either–

(a) an increase in the weekly rate of retirement pension for flat-rate contributions paid in respect of the period after the beneficiary, or, as the case may be, the beneficiary's ▶spouse or civil partner◀, attained pensionable age; or

(b) graduated retirement benefit.

Words in art. 10(1)(a) substituted by art. 2 of S.I. 2005/2765 as from 5.12.05.

(2) Nothing in PART II or PART III of this Agreement shall affect a person's right to a death grant under the legislation of the United Kingdom.

Article 11

(1) The relevant reciprocal provisions shall not apply, for the purposes of disability benefit under the legislation of the Republic of Ireland, to a person claiming that benefit who on the date for which benefit is claimed is over pensionable age under the legislation of the United Kingdom, but, in lieu thereof, the following provisions of this Article shall apply.

(2) Where such a person has not retired from regular employment under the legislation of the United Kingdom, and he would, had he been in the United Kingdom, have been entitled to sickness benefit under that legislation (calculated by reference to the notional rate of his retirement pension), he shall be entitled by virtue of this Article, to disability benefit under the legislation of the Republic of Ireland at whichever is the lower of the two following rates, that is to say–

(a) the full appropriate rate of disability benefit under the legislation of the Republic of Ireland; or

(b) the rate of the sickness benefit to which he would have been entitled under the legislation of the United Kingdom.

(3) Save as provided in the foregoing paragraph, such a person shall not be entitled to disability benefit under the legislation of the Republic of Ireland by virtue either of this Article or of the relevant reciprocal provisions.

(4) In this Article, "the relevant reciprocal provisions" means the provisions in any reciprocal agreement made between the Contracting Parties or the competent authorities of the two countries which provides for the taking into account, for the purpose of sickness or disability benefit under the legislation of one country, of insurance or contributions under the legislation of the other country.

▶(5) The relevant reciprocal provisions shall not apply, for the purposes of sickness or disability benefit under the legislation of one country, to a person claiming that benefit if, for the date for which benefit is claimed, widow's benefit, a widow's (contributory) pension or a pension by way of death benefit (other than an orphan's pension) is payable to that person under the legislation of the other country or an increase of benefit is payable in respect of that person under that legislation.

Paras. (5) and (6) added by art. 4 of Sch. to S.I. 1968/1655 as from 4.11.68.

(6) Where a person receives a sum by way of sickness or disability benefit under the legislation of one country by virtue of paragraph (2) of this Article or the relevant reciprocal provisions for any period beginning on or after 4 November 1968 for which he is not entitled to that benefit, and is entitled to widow's benefit, a widow's (contributory) pension, a retirement pension or a pension by way of death benefit (other than an orphan's pension) for the same period under the legislation of the other country, the said sum so received shall be treated as having been paid by way of the benefit to which he is entitled under the legislation of the latter country.◄

Article 12

For the purposes of a claim to pension under the Old Age Pensions Acts, 1908 to 1965, or the Widow's and Orphan's Pensions Acts, 1935 to 1965, by a person resident in the Republic or Ireland, a British war pension shall be treated as if it were a pension or allowance under the Army Pensions Acts, 1923 to 1964, in the application of Rule 1 (II)(g) of the Rules as to the Calculation of Means in the Seventh Schedule to the Social Welfare Act, 1952.

Article 13

Any claim for benefit, notice or appeal made or given to the competent authority of one country may, at the discretion of the competent authority of the other country, be treated as a claim, notice of appeal made or given to that authority under the legislation of that other country.

Article 14

Such financial adjustments between the Funds of the two countries as may be agreed from time to time in connection with this Agreement shall be made by the competent authorities.

Article 15

Articles 15 to 20 added by art. 5 of Sch. to S.I. 1968/1655 as from 4.11.68.

►For the purposes of the legislation of the United Kingdom, a person shall not be treated as a non-domiciled airman if he is domiciled or has a place of residence in the Republic of Ireland and, for the purposes of the legislation of the Republic of Ireland, a person shall not be so treated if he is domiciled or has a place of residence in the United Kingdom.

Article 16

In relation to any area outside the territorial waters of a country which has been designated, under the laws of that country concerning the Continental Shelf, as an area within which the rights of that country with respect to the sea bed and subsoil and their natural resources may be exercised, the provisions of this Agreement and the earlier agreements shall apply subject to such modifications as may be required.

Article 17

(1) For the purpose of the right of any person to receive an increase of benefit under the legislation of one country in respect of a child or adult dependant who is in the other country or ordinarily resident there, the child or adult dependant, as the case may be, shall be treated as if he were, as the case may be, in the former country or ordinarily resident there.

(2) Where under the legislation of one country a person would be entitled to death benefit if a child were in that country or had been there at the time when one of his parents died or at any other specified time, he shall be entitled to that benefit if the child, as the case may be, is in the other country or was there at that time.

(3) For the purpose of the right of any person to receive benefit or an increase of benefit in respect of a child–

(a) a child in the Republic of Ireland shall not be treated under the legislation of the United Kingdom as included in any family as respects any period during which he is detained in a reformatory or an industrial school;

(b) a child in the United Kingdom shall not be treated under the legislation of the Republic of Ireland as a qualified child or as a child qualified for the purposes of the Social Welfare (Occupational Injuries) Act 1966 as respects any period during which he is detained in a remand home, an approved school or a training school.

(4) Notwithstanding the provisions of paragraph (1) of this Article and those provisions of the earlier agreements which enable a child or adult dependant who is in one country to be treated as if he were in the other country for the purpose of the right of any person to receive an increase of benefit under the legislation of that other country, no increase of benefit shall be paid under the legislation of one country in respect of a child or adult dependant who is in the other country for any period during which an increase of benefit is payable in respect of that child or adult dependant, as the case may be, under the legislation of the other country.

Article 18

Nothing in paragraph (5) of Article 11 of this Agreement shall diminish any right to sickness or disability benefit if the benefit has begun to accrue before 4 November 1968, and nothing in Article 17 or Article 27 of this Agreement shall diminish any right to old age benefit, widow's benefit, a widow's (contributory) pension, death benefit, a guardian's allowance or any increase of any such benefit if the benefit or increase of benefit, as the case may be, has begun to accrue before that date.

Article 19

The competent authorities–

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

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

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

Article 20

The competent authorities of the two countries shall furnish information and assistance to one another with regard to any persons claiming benefit under the legislation of either country.◄

Part V (arts. 21–27) added by art. 6 of Sch. to S.I. 1968/1655 as from 4.11.68.

▸PART V

OCCUPATIONAL INJURIES BENEFIT

Article 21

(1) Persons in one country shall be entitled to receive occupational injuries benefit under the legislation of the other country only in accordance with the provisions of this Agreement.

(2) A person shall not be disqualified for receiving–

(a) injury benefit;
(b) disablement benefit (including unemployability supplement, constant attendance allowance, hospital treatment allowance or exceptionally severe disablement allowance); or
(c) death benefit (including, by way of death benefit, allowances in respect of children);

under the legislation of one country for any period during which he is in the other country, provided that, subject to the provisions of paragraph (4) of this Article, in the case of injury benefit, such notice as is required under the next paragraph of this Article of his intended absence from the former country is given to the competent authority of that country.

(3) The period of such notice shall be one week or more expiring immediately before the date of the commencement of the journey to the other country, or such shorter period as such competent authority may accept as sufficient in a particular case, provided that the said authority may in a particular case waive the requirement to give notice.

(4) The provisions relating to the giving of notice in paragraphs (2) and (3) of this Article shall not apply where injury benefit is payable to a person under the legislation of one country in respect of a disease which develops after the commencement of his journey to the other country.

Article 22

Where a person has received benefit for an industrial injury or industrial disease under the legislation of one country and claims such benefit for a later injury or disease under the legislation of the other country, then, for the purpose of determining the degree of his disablement, the injury or disease for which he received the first-mentioned benefit shall be treated as if the legislation of that other country applied to it, and any benefit payable for that injury or disease shall be taken into account as if it were payable under that legislation.

Article 23

Where a person contracts an industrial disease after having been employed in both countries in occupations to which, under the provisions of the legislation of both countries, the disease may be attributable, benefit in respect of such disease shall be payable only under the legislation of the country in which the person was last employed in such an occupation before the disease was first diagnosed. Any period of employment in such an occupation in one country shall be deemed to have been employment in that occupation in the other country for the purpose of any provision in the legislation of that other country concerning the reckoning of time in relation to such an occupation.

Article 24

Where an accident happens to a person after he leaves one country to go in the course of his employment to the other country, and before he arrives in that other country, then, for the purpose of any claim to benefit in respect of that accident–

(a) the accident shall be deemed to have happened in the country under the legislation of which contributions were expected to be payable in respect of his employment in that other country; and

(b) his absence from either country shall be disregarded for the purpose of determining whether his employment was insurable under such legislation.

Article 25

(1) Where a person is employed in one country and, by virtue of the earlier agreements, the provisions of the legislation of the other country which concern the payment of contributions in relation to occupational injuries benefit apply to him, then, without prejudice to the provisions of the earlier agreements, for the purposes of any claim to occupational injuries benefit under the legislation of either country in respect of an accident happening, or a disease contracted, in the course of such employment, the person shall be treated as if the accident had happened, or the disease had been contracted, in the other country and as if that employment were insurable and as if he were in such other country.

(2) This Article shall have effect from 1 May 1967.

Article 26

Where a person receives a sum by way of sickness or disability benefit under the legislation of one country for any period beginning on or after 4 November 1968, and is entitled to injury benefit for the same period under the legislation of the other country, the said sum so received shall be treated as having been paid by way of injury benefit due under the legislation of that other country.

Article 27

Any occupational injuries benefit payable under the legislation of one country or any increase of such benefit shall, without prejudice to the provisions of the earlier agreements and Article 11 of this Agreement, be treated, for the purposes of the legislation of the other country relating to overlapping benefits or adjustments for successive accidents, as if it were an equal amount of the corresponding benefit or increase of benefit payable under the legislation of the latter country, provided that any right which a person has acquired under the legislation of the latter country shall be maintained, if it is a right to occupational injuries benefit which he has acquired before the benefit under the legislation of the former country became payable to him.◄

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

Done in duplicate at Dublin, this 28th day of February, nineteen hundred and sixty-six.

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

Geofroy Tory

For the Government of the Republic of Ireland:

Caoimhghin O Beoláin

IRISH REPUBLIC
N.I. (REPUBLIC OR IRELAND) ORDER 1966

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order gives effect in Great Britain to the Agreement (set out in the Schedule) made between the Governments of the United Kingdom and the Republic of Ireland in so far as it relates to the matters for which provision is made by the National Insurance Act 1965.