1983 No. 432

SOCIAL SECURITY

The Social Security (New Zealand) Order (Northern Ireland) 1983

Made . . . . . *22nd December 1983*

Coming into operation . . . *1st January 1984*

In exercise of the powers conferred on me by section 134 of the Social Security (Northern Ireland) Act 1975(**a**), and Article 17 of the Child Benefit (Northern Ireland) Order 1975(**b**) and of all other powers enabling me in that behalf, I hereby make the following order:

Citation and commencement

1. This order may be cited as the Social Security (New Zealand) Order (Northern Ireland) 1983 and shall come into operation on 1st January 1984.

Modification of the Social Security (Northern Ireland) Act 1975

2. The Social Security (Northern Ireland) Act 1975 shall be modified to such extent as may be required to give effect to the provisions contained in the Convention on Social Security set out in the Schedule to this order, so far as the same relate to Northern Ireland.

Modification of the Child Benefit (Northern Ireland) Order 1975

3. Part II of the Child Benefit (Northern Ireland) Order 1975 (child benefit) and any regulations made under it shall be modified to such extent as may be required to give effect to the provisions contained in the Convention on Social Security set out in the Schedule to this order, so far as the same relate to Northern Ireland.

Revocation and Variation of Orders

4.—(1) The Family Allowances and National Insurance (New Zealand) Order (Northern Ireland) 1970(**c**) is hereby revoked.

(2) In Part I of Schedule 1 to the Social Security (Reciprocal Agreements) (Northern Ireland) Order 1976(**d**) the entry relating to the said order of 1970 shall be omitted.

(3) In the Schedule to the Social Security (Reciprocal Agreements) Order (Northern Ireland) 1979(**e**) the entry relating to the said order of 1970 shall be omitted.

Dated this 22nd day of December 1983.

James Prior
One of Her Majesty's Principal Secretaries of State

(**a**) 1975 c. 15; section 134 was amended by section 20(3) of, and extended by section 20(4) of, the Social Security (Miscellaneous Provisions) Act 1977 (1977 c. 5), and subsection (1A) of section 134 was inserted by Article 7(1) of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25))

(**b**) S.I. 1975/1504 (N.I. 16); Article 17(1) was amended by Article 16 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), and paragraph (1A) was inserted by Article 7(2) of the Social Security (Northern Ireland) Order 1981

(**c**) S.R. & O. (N.I.) 1970 No. 21

(**d**) S.I. 1976/1044

(**e**) S.R. 1979 No. 92

SCHEDULE

CONVENTION ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF NEW ZEALAND

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand;

Having established reciprocity in the field of social security by means of the Agreement on Social Security which was signed on their behalf at Wellington on 19 June 1969;

Desiring to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows:

PART I

General Provisions

ARTICLE 1

(1) For the purpose of this Convention:

(*a*) "legislation" means, in relation to a Party, such of the legislation specified in Article 2 of this Convention as applies in the territory of that Party or in any part thereof;

(*b*) "competent authority" means the authority responsible for the social security schemes in all or part of the territory of each Party; that is to say, in relation to the United Kingdom, the Secretary of State for Social Services, the Department of Health and Social Services for Northern Ireland, the Isle of Man Board of Social Security as the case may require, and, in relation to New Zealand, the Social Security Commission;

(*c*) "insurance authority" means, in relation to the United Kingdom, the authority competent to decide entitlement to the benefit in question;

(*d*) "competent institution" means the authority from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that authority is situated;

(*e*) "a credit" means, in relation to the United Kingdom, that a contribution has been credited under the legislation of that Party;

(*f*) "dependant" means a person who would be treated as such for the purpose of any claim for an increase of benefit in respect of a dependant under the legislation of the United Kingdom or New Zealand;

(*g*) "child" means, in relation to any person, a child as defined in the legislation which is being applied who would be treated under that legislation as being a child of that person or included in his family;

(*h*) "entitled to receive" means entitled to receive subject to any condition about giving notice or making a claim and to any earnings rule, retirement rule, means test or disqualification which may be appropriate;

(*i*) "widow's benefit" means, in relation to the United Kingdom, widow's allowance, widowed mother's allowance and widow's pension payable under the legislation of that Party and, in relation to New Zealand, has the same meaning as in the legislation of that Party, and includes a child supplement payable under that legislation;

(*j*) "orphan's benefit" means, in relation to the United Kingdom, guardian's allowance payable under the legislation of that Party;

(*k*) "family allowance" means, in relation to the United Kingdom, child benefit payable under the legislation of that Party and, in relation to New Zealand, it means family benefit payable under the legislation of New Zealand;

(*l*) "gainfully occupied" means being an employed or self-employed person;

(*m*) "usually gainfully occupied" means that the person concerned is in, or resident in, the territory of the Party concerned and usually gainfully occupied there, or would be so occupied but for the fact that he is incapacitated for work, or is unemployed;

(*n*) "employed person" means a person who comes within the definition of an employed person or of an employed earner or a person who is treated as such in the applicable legislation and the words "person is employed" shall be construed accordingly;

(*o*) "employment" means employment as an employed person and the words "employ", "employed" or "employer" shall be construed accordingly;

(*p*) "self-employed person" means a person who comes within the definition of a self-employed person or of a self-employed earner or a person who is treated as such in the applicable legislation and the words "person is self-employed" shall be construed accordingly;

(*q*) "contribution period" means a period in respect of which contributions appropriate to the benefit in question are payable, have been paid or treated as paid under the legislation in question;

(*r*) "equivalent period" means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

(*s*) "usually resident" means, in relation to the United Kingdom, ordinarily resident and, in relation to New Zealand, it means permanently resident;

(*t*) "the former Agreements" means the Agreement between the United Kingdom and New Zealand on Social Security signed at Wellington on 20 December 1955, and the Agreement between the United Kingdom and New Zealand on Social Security signed at Wellington on 19 June 1969.

(2) Other words and expressions which are used in this Convention have the meanings respectively assigned to them in the legislation concerned.

(3) The present Convention applies:

(*a*) on the part of the United Kingdom, to the United Kingdom of Great Britain and Northern Ireland and to the Isle of Man;

(*b*) on the part of New Zealand to New Zealand only (and not to the Cook Islands, Niue or Tokelau);

and references to "the United Kingdom", to "New Zealand" or to "territory" in relation to either of them shall be construed accordingly.

ARTICLE 2

(1) The provisions of this Convention shall apply,

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

(i) the Social Security Acts 1975 to 1982 and the Social Security (Northern Ireland) Acts 1975 to 1982;

(ii) the Social Security Acts 1975 to 1982 (Acts of Parliament) as applied to the Isle of Man by orders made under the provisions of the Social Security Act 1982 (an Act of Tynwald);

(iii) the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as applied to the Isle of Man by orders made under the provisions of the Social Security Act 1982 (an Act of Tynwald);

and the legislation which was consolidated by those Acts or Orders or repealed by legislation consolidated by them;

(*b*) in relation to New Zealand, to:
the Social Security Act 1964.

(2) Subject to the provisions of paragraphs (3), (4) and (5) of this Article, this Convention shall apply also to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph (1) of this Article.

(3) This Convention shall apply, unless the Parties agree otherwise, only to benefits described in the legislation specified in paragraph (1) of this Article at the date of coming into force of this Convention and for which specific provision is made in this Convention.

(4) This Convention shall apply to any legislation which relates to a branch of social security not covered by the legislation specified in paragraph (1) of this Article, only if the two Parties make an agreement to that effect.

(5) This Convention shall not apply to Regulations on social security of the Council of the European Communities or to any convention on social security which either Party has concluded with a third party or to any laws or regulations which amend the legislation specified in paragraph (1) of this Article for the purpose of giving effect to such a convention but shall not prevent either Party from taking into account under its legislation the provisions of any other convention which that Party has concluded with a third party.

Benefit for Dependants

ARTICLE 3

Where a person who is qualified to receive any benefit under the legislation of the United Kingdom would be qualified also to receive an increase of that benefit for a dependant if the dependant were in the United Kingdom, he shall be qualified to receive that increase while the dependant is in New Zealand, provided that he shall not be qualified to receive any increase of benefit in respect of a child who is usually resident in New Zealand, other than in the case provided for in Article 12(2).

PART II

SECTION 1

Sickness Benefit

ARTICLE 4

(1) Subject to the provisions of Article 7 of this Convention, the provisions of paragraphs (1) and (2) of this Article shall apply for the purposes of a claim for sickness benefit under the legislation of the United Kingdom by a person who is usually gainfully occupied in the United Kingdom, or would but for his incapacity for work be so occupied:

(*a*) each week during which that person was employed in New Zealand shall be treated under the legislation of the United Kingdom as a week for which he paid under that legislation an employed earner's contribution on earnings equivalent to two-thirds of that year's upper earnings level;

(*b*) each week during which that person was self-employed in New Zealand shall be treated as a week for which he paid a Class 2 contribution under the legislation of the United Kingdom;

(*c*) each week during which that person was unemployed in New Zealand and available for work, and each week during which a person was in New Zealand and was incapable of work, may, where necessary, be treated as a week for which he received a credit under the legislation of the United Kingdom, provided that that week was part of a period during which he was usually gainfully occupied.

(2) Where a person was receiving sickness benefit or invalid's benefit under the legislation of New Zealand when he was last in that country and is incapable of work at the time when he arrives in the United Kingdom, he shall be treated under the legislation of the United Kingdom as if at that time, and for so long as he continues from that time to be incapable of work, he satisfied the contribution conditions for sickness benefit under that legislation.

(3) For the purpose of a claim to receive sickness benefit under the legislation of New Zealand by a person who is usually gainfully occupied in that country, or would but for his incapacity for work be so occupied, each week during which that person was resident in the United Kingdom shall be treated as if it were a week during which he was resident in New Zealand.

(4) Where, but for the provisions of this Article, a person would be entitled to receive sickness benefit under the legislation of both Parties for the same period, whether by virtue of the provisions of this Convention or otherwise, that benefit shall be granted only under the legislation of the country in which he is usually resident.

SECTION 2

Invalid's Benefit

ARTICLE 5

Where a person who is usually resident in New Zealand claims invalid's benefit under the legislation of that Party, he shall be treated for the purpose of that claim as if:

(*a*) he had been resident in New Zealand during any period during which he was resident in the United Kingdom;

(*b*) any blindness or permanent incapacity for work originating in the United Kingdom had originated in New Zealand.

SECTION 3

Unemployment Benefit

ARTICLE 6

(1) Subject to the provisions of Article 7 of this Convention, the provisions of paragraph (1)(*a*) and (1)(*c*) of Article 4 of this Convention shall apply to a person for the purposes of a claim for unemployment benefit under the legislation of the United Kingdom at a time when he would usually be gainfully occupied as an employed person in the territory of the United Kingdom.

(2) Where a person claims unemployment benefit under the legislation of New Zealand at a time when he would usually be gainfully occupied in that country, any period during which he was resident in the United Kingdom shall be treated as a period during which he was resident in New Zealand.

(3) Where a person claims unemployment benefit under the legislation of the United Kingdom by virtue of paragraph (1) of this Article, any period for which he received such benefit under the legislation of New Zealand shall be taken into account as if it were a period during which he had received unemployment benefit under the legislation of the United Kingdom.

SECTION 4

ARTICLE 7

(1) Nothing in Articles 4 or 6 of this Convention shall diminish any right to receive sickness benefit or unemployment benefit under the legislation of the United Kingdom which a person has otherwise than by virtue of the provisions of this Convention.

(2) Any claim to benefit by a person to whom the provisions of Article 4(1) or Article 6(1) apply shall take account also of contribution periods and equivalent periods completed under the legislation of the United Kingdom.

SECTION 5

Orphan's Benefit

ARTICLE 8

(1) Where a person who is usually resident in the United Kingdom claims orphan's benefit under the legislation of the United Kingdom in respect of a child who is also usually resident there, each week of residence completed in New Zealand by either parent of the child shall be treated as if it had been a week of residence completed in the United Kingdom and if either parent of the child was born in New Zealand, that parent shall be treated as if he had been born in the United Kingdom.

(2) Where a person who is usually resident in New Zealand claims orphan's benefit under the legislation of New Zealand in respect of a child who is also usually resident there, that child shall be treated as if it had been born in New Zealand if it was born in the United Kingdom and any period during which that child's last surviving parent was usually resident in the United Kingdom shall be treated as if it were a period during which that parent was usually resident in New Zealand.