1975 No. 77

SOCIAL SECURITY

The Family Allowances, National Insurance and Industrial Injuries (Spain) Order (Northern Ireland) 1975

Made . . . . . *25th March* 1975

Coming into operation . . . *1st April* 1975

WHEREAS at London on 13th September 1974 a Convention on social security between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Spain (which Convention is set out in the Schedule and is hereinafter referred to as "the Convention") was signed on behalf of those Governments:

AND WHEREAS by Article 36 of the Convention it is provided that the Convention shall enter into force on the first day of the second month following the month in which the instruments of ratification are exchanged:

AND WHEREAS the Convention has been ratified by the said Governments and the instruments of ratification were exchanged on 25th February 1975, and accordingly the Convention enters into force on 1st April 1975:

AND WHEREAS by section 99 of the National Insurance Act (Northern Ireland) 1966(a) as extended by section 21 of the Family Allowances Act (Northern Ireland) 1966(b), and section 79 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(c), it is provided that the Governor of Northern Ireland may by Order in Council make provision for modifying or adapting the said Acts of 1966 in their application to cases affected by agreements with other Governments providing for reciprocity in matters specified in those sections:

AND WHEREAS by paragraph 4 of Schedule 5 to the Northern Ireland Constitution Act 1973(d) it is provided that any reference to the Governor of Northern Ireland, as respects functions to be discharged by him, or to the Governor of Northern Ireland in Council shall be construed as a reference to the Secretary of State and that any reference to the making of an Order in Council by the Governor of Northern Ireland shall be construed as a reference to the making of an order by the Secretary of State:

NOW, THEREFORE, the Secretary of State, in exercise of the powers conferred upon him by the said section 99 as so extended, by the said section 79 and by paragraph 4 of Schedule 5 to the Northern Ireland Constitution Act 1973 and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Family Allowances, National Insurance and Industrial Injuries (Spain) Order (Northern Ireland) 1975.

(a) 1966 c. 6 (N.I.)
(b) 1966 c. 8 (N.I.)
(c) 1966 c. 9 (N.I.)
(d) 1973 c. 36

Modification of Acts

2. The provisions contained in the Convention shall have full force and effect so far as they relate to Northern Ireland and provide for reciprocity in any matters specified in either section 99(1) of the National Insurance Act (Northern Ireland) 1966 as extended by section 21 of the Family Allowances Act (Northern Ireland) 1966, or section 79(1) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966; and accordingly the Family Allowances Acts (Northern Ireland) 1966 to 1969, the National Insurance Measures (Northern Ireland) 1966 to 1974 and the National Insurance (Industrial Injuries) Measures (Northern Ireland) 1966 to 1974 shall have effect subject to such modifications as may be required therein for the purpose of giving effect to those provisions.

Dated this 25th day of March 1975.

Merlyn Rees
One of Her Majesty's Principal
Secretaries of State

SCHEDULE

CONVENTION ON SOCIAL SECURITY BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND SPAIN

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

Being resolved to co-operate in the field of social affairs and, in particular, in the matter of social security;

Desirous of promoting the welfare of persons moving between or working in the territories of their two countries;

Desirous of ensuring that persons from both countries shall enjoy equal rights under their respective social security legislation;

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

Desirous further of making arrangements enabling persons who go from the territory of one Party to the territory of the other either to keep the rights which they have acquired under the legislation of the former Party or to enjoy corresponding rights under the legislation of the latter;

Have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE 1

(1) For the purpose of this Convention:

(*a*) "the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland and "Spain" means the Spanish State;

(*b*) "territory" means, in relation to the United Kingdom, England, Scotland, Wales, Northern Ireland, the Isle of Man, the Island of Jersey and the Islands of Guernsey, Alderney, Herm and Jethou and, in relation to Spain, the territory of the Spanish State;

(*c*) "legislation" means the legislation specified in Article 2 of this Convention which is in force in the territory of one (or the other) Contracting Party or in any part of that territory;

(*d*) "competent authority" means, 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, the Social Security Committee of the States of Jersey or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Spain, the Ministry of Labour;

(*e*) "insurance authority" means, in relation to the United Kingdom, the competent authority and, in relation to Spain, the Managing Bodies of the General Scheme and those of the Special Schemes listed in Article 2(1)(*b*)(ii) of this Convention;

(*f*) "competent insurance authority" means the insurance authority responsible under the applicable legislation for dealing with the matter in question;

(*g*) "worker" means, for the purpose of applying the legislation of the United Kingdom, a person who comes within the definition of an employed person or a person who is treated as an employed person and, for the purpose of applying the legislation of Spain, a gainfully occupied person who is not self-employed;

(*h*) "employment" means, for the purpose of applying the legislation of the United Kingdom, employment as a worker and the word "employ" refers to such employment;

(*i*) "insurance period" means a contribution period or equivalent period;

(*j*) "contribution period" means a period in respect of which contributions appropriate to the benefit in question have been paid or treated as paid under the legislation of one (or the other) Contracting Party;

(*k*) "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 the United Kingdom and, in relation to Spain, a period which is treated as equivalent to a contribution period under the legislation of Spain;

(*l*) "pension", "allowance" or "benefit" means a pension, allowance or benefit, including any increase thereof and any additional allowance payable therewith;

(*m*) "sickness benefit" means, in relation to the United Kingdom, sickness benefit payable under the legislation of the United Kingdom and, in relation to Spain, cash benefits for temporary incapacity for work caused by common illness and non-industrial accident;

(*n*) "invalidity pension" means, in relation to the United Kingdom, invalidity benefit as defined in the legislation of the United Kingdom and, in relation to Spain, any cash benefit provided under its legislation for cases of temporary and permanent invalidity caused by common illness and non-industrial accident;

(*o*) "old age pension" means, in relation to the United Kingdom, a contributory old age pension or retirement pension (including age addition where payable) payable under the legislation of the United Kingdom and, in relation to Spain, an old age pension as provided under the legislation of Spain;

(*p*) "survivor's benefit" means, in relation to the United Kingdom, widow's allowance, widowed mother's allowance, widow's pension and widow's basic pension payable under the legislation of the United Kingdom and, in relation to Spain, widows' pensions and temporary allowances and pensions for surviving dependants as a result of common illness and non-industrial accident as defined in the legislation of Spain;

(*q*) "orphan's benefit" means, in relation to the United Kingdom, guardian's allowance payable under the legislation of the United Kingdom and, in relation to Spain, orphans' pensions arising out of common illness and non-industrial accident as defined in the legislation of Spain;

(*r*) "ship or aircraft" means, in relation to the United Kingdom, a ship, vessel or hovercraft registered in the territory of the United Kingdom or any other British ship, vessel or hovercraft of which the owner (or managing owner if there is more than one owner) or manager has his principal place of business in that territory and an aircraft registered in that territory of which the owner (or managing owner if there is more than one owner) has his principal place of business in that territory and, in relation to Spain, a ship flying the Spanish flag in accordance with the legislation of Spain and an aircraft registered in Spain.

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

ARTICLE 2

(1) The provisions of this Convention shall apply:

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

(i) the National Insurance Act 1965, the National Insurance Act (Northern Ireland) 1966, the National Insurance (Isle of Man) Act 1971 and the legislation which was consolidated by those Acts or repealed by legislation consolidated by them;

(ii) the National Insurance (Industrial Injuries) Act 1965, the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 and the National Insurance (Industrial Injuries) (Isle of Man) Act 1971;

(iii) the Insular Insurance (Jersey) Law 1950;
(iv) the Social Insurance (Guernsey) Laws 1964-1973; and
(v) the Family Allowances Act 1965, the Family Allowances Act (Northern Ireland) 1966, the Family Allowances (Isle of Man) Act 1971, the Family Allowances (Jersey) Law 1972 and the Family Allowances (Guernsey) Laws 1950-1965;

(*b*) in relation to Spain, to:
(i) the legal provisions of the General Scheme of Social Security;
(ii) the legal provisions relating to the following Special Schemes of Social Security:
(*aa*) agriculture;
(*bb*) mariners;
(*cc*) coal miners;
(*dd*) railway workers;
(*ee*) domestic service;
(*ff*) independent workers;
(*gg*) commercial travellers;
(*hh*) students;
(*ii*) artists;
(*jj*) authors;
(*kk*) bullfighters.

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

(3) 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 Contracting Parties conclude an agreement to that effect.

(4) This Convention shall not apply to any agreement 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 an agreement.

ARTICLE 3

A national of one Contracting Party or a person subject to the legislation of that Party who becomes resident in the territory of the other Contracting Party shall, together with his dependants, be subject to the obligations and shall enjoy the advantages of the legislation of the other Contracting Party under the same conditions as a national of that Party, subject to any special provision of this Convention.

ARTICLE 4

Unless this Convention otherwise provides, invalidity, old age or survivor's benefit, pensions awarded for industrial accident or disease and death benefits acquired by virtue of the legislation of one Contracting Party shall not be subject to any reduction, modification, suspension, abolition or confiscation by reason of the fact that the beneficiary resides in the territory of the other Contracting Party.

ARTICLE 5

(1) Subject to the provisions of Articles 12(2), 15(5), 21(2) and 22 of this Convention, where under the legislation of Spain any benefit or any increase of benefit would be payable for a dependant if he were in the territory of Spain, it shall be paid while he is in the territory of the United Kingdom.